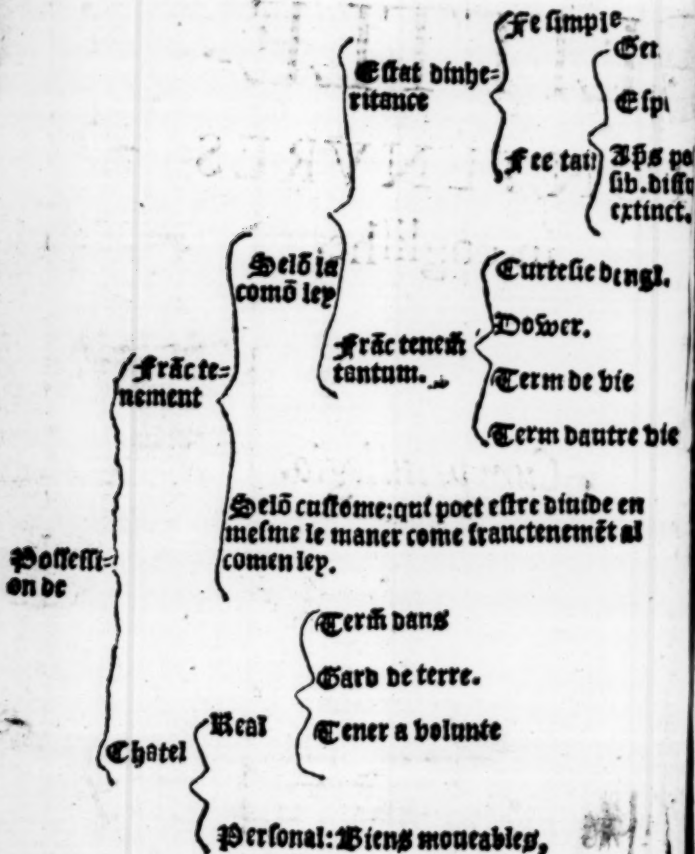


Wm. Baskin m. p. 1602

LITTLE TONTENVRES in englishe,

Cum priuilegio.

A figure of the diuision of possession





Enant in fee simple is hee whiche hath lands or tenements to holde to hym and to his heires for ever.

And it is called in Latine feodum simplex, for feodum is called inheritaunce and simplex is as much to say as lawfull or pure, and so feodum simplex is as much to saye as lawfull or pure inheritaunce. For if a man will purchase landes or tenements in fee simple, it behoueth him to haue these woordes in his purchase, to haue and to hold vnto hym & to his heires, for these woordes (hys heires) make the estate of inheritance. Anno. 20. H. 6. Folio. 38.

For if any man purchase landes by these woordes to haue and to holde to hym for ever or by such woordes to haue and to hold to him and to his assignes for ever. In these two cases hee hath none estate but for terme of lyfe, for that he lacketh these woordes his heires, which woordes only make the estate of inheritance in all feoffements and grauntes.

And if a man purchase landes in fee simple and dye without issue, euerye one that is hys next cosyn collaterall of the whole blood, how farre so ever that he be from him of degree may enherite and haue the same lande as heire to him. But if there be father and sonne, and the father hath a brother, which is vncle vnto the sonne, and the sonne purchaseth land in fee simple and dyeth wythout issue lyvinge the father, the vncle shall haue the lande, as

§.ii.

heire

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Fee simple.

heire vnto the sonne, and not the father (yet the father is moze nigh of blood vnto the sonne) for that that there is a ground in the law, that inherisance may lineally descend, but not lineally ascend, yet if the sonne in such case dye without issue & his vncle entreteth into the land as heire vnto the sonne so as he ought by the law, and after if the vncle decease without issue liuinge the father, then shall the father haue the land as heire vnto the vncle, & not heire vnto the sonne, for that he commeth vnto the lande by collateral descent, & not by lineal ascencion.

And in such case where the sonne purchaseth land in fee simple, & dyeth without issue, they of his blood on the fathers syde shall inherite as heire vnto him, before any of the blood of the mothers syde. But if hee haue no heire on the fathers syde, then shall the land descend vnto his heire on the mothers side. And this is the opinion of the Justices *29. 12. E. 4. folio. 34.* But there it was holden if any land descend vnto a man by the fathers side which dyeth without issue, that his next heire on the fathers syde shall inherite vnto him, that is to say the next of blood of the father of the graund fathers syde. And for default of suche an heire they that be of the fathers blood of the parte of the mothers, of the father (that is to saye) the graundmother ought to inherite. And if ther bee no such heire on the fathers syde, then the lord shall haue the lande by eschete. And so it is if a man take a wyfe inherite in fee simple, which

which hath issue a sonne & dieth, & y sonne entreteth into the tenements as sonne & heir vnto his mother, & after dieth without issue, the heirs on the mothers side ought to inherite the tenements, & not the heirs on the fathers side.

And if ther be non heirs on the mothers side, then the lord of whom y same land is holden, shal haue the same land by eschete. In y same maner it is if landz disceind vnto the sonne on the fathers side, & entreteth & after dieth without issue, the land shal disceinde vnto the heirs on the fathers side, and not vnto the heirs on the mother side. And if there be none heirs on the father side, then the lord of whom the land is holden shal haue the same land by eschete. And so ye maye see the diuersitie, where the sonne purchaseth lands in fee simple, & wher he cometh into those lands oz tenements by disceint on the father side oz on the mother side.

Also if there be three brethren, & the middle brother purchaseth land in fee simple & dyeth without issue, the elder brother shal haue the land by disceint & not the yonger. Also if there be three brethren, & y yongest brother purchaseth land in fee simple & dieth without issue, y elder brother shal haue the lands by disceint, & not the middle brother, for that y the elder brother is more woorthy of blood.

¶ And it is to bee vnderstand that no man shal haue land in fee simple by disceint as heir vnto anye man, but that hee bee hys heire of the whole blood. For if a man haue issue two sonnes, by .2. ventres and the elder purchaseth

Fee simple.

land in fee simple and dyeth without issue, the yonger brother shall not haue the land but the vncle of the elder brother or some other hys nyghe cosyn shall haue it, for that þ the yonger is but of the halfe bloude to the elder brother. And if a man haue a sonne and a daughtre by one venter, and a sonne by an other venter, & the sonne by the first venter purchaseth lande in fee simple and dieth without issue, the sister shal haue the land by discent as heire vnto her brother and not the yonger brother, for that þ the sister is of the hole bloud to her elder brother.

And also where a man is seised of lande in fee simple, & hee hath issue a sonne & a daughter by one venter and a sonne by another venter and dieth, and the elder sonne entreth and dieth without issue, the daughter shal haue the lande and not the yonger sonne, and yet is the yonger sonne heir vnto his father and not his brother. But if the elder sonne enter not into the lande after the death of his father, but dyeth befoze enter bee made by him, the yonger brother may enter and haue the lande as heire vnto his father. But where the elder sonne in the case aforesaid entreth after the death of his father and thereof hath possession, then þ sister shall haue the lande. *Quia possessio fratris de feodo simplici facit sororem esse heredem.* For the possession of the brother in fee simple maketh the sister to bee heire.

But if there bee thwe brythren by dyuers ventres,

ventres, and the elder is seised in fee simple & dyeth without issue, and his vncle entreth as heire vnto hym, whiche also dyeth without issue, then the yonger brother may haue the land as heire vnto hys vncle, because hee is of the whole blood to hym though hee bee but of halfe blood vnto his elder brother.

And it is to be vnderstand, that this woorde inheritaunce, is not onely vnderstande wher a man hath landes or tenementes by dyscent of heritage. But also euery fee simple or fee taile that a man hath by his purchase, may bee saide inheritance, for that, that his heires maye inherite him. For in a writte of ryght that a man bringeth of lande, that was of hys owne purchase, the writt shall saye: *Quam clamat esse suam & hereditatem suam*. That is to say, which hee claimethe to bee his righte and his inheritance. And so it shalbee sayde in dyuers other writtes whiche a man or a woman bringethe of theire owne purchase, as it appeareth by the Register.

And of suche thinges as a man may haue a manuell occupation, possession, or rescepte, as of landes, tenementes, rentes, and suche other, a man shall say in his pleding, and in waie of barre, that one such was seised in his demesne as of fee. But of suche thinges that ye not in manuell occupation &c. as of anowson of a churche, and suche maner thing, there hee shall saye, that hee was seised as of fee, and not in hys demesne as of fee. And in latyne it ys in

A. iiij. the

the same case said. Quod talis fuit testator in dominico suo de feodo, that is to saye, that suche one was testid in his demerance as of fee, and in that other. Quod talis fuit testator de feodo, that is to saye, that one suche was testid as of fee.

And note well that a man maye not haue a more large ne greater estate of inheritaunce then fee simple.

Also, purchaſe is called the possession of landes or tenementes that a man hath by hys deede or by hys agreeunte, vnto whiche possession he cometh not by discent of anye of his auncestors, or of his cosins, but by his owne deede.

Fee taile.

Tenant in fee taile is by force of a statute of westminster the second. Cap. primo. For at the common law before the sayde statute, all inheritaunce were fee simple. For all the giftes which been specified within the same statute, were fee simple condicionally, as it appeareth by the reherſall of the statute. And now by the same statute, tenant in the taile is sayde in two maners, that is to saye, tenant in taile generall, and tenant in taile ſpectall.

Tenant in taile generall is, where landes or tenementes bee given to a man and to hys heires of his body begotten. In this case it is sayde generall taile, for that that whatſoever woman that the tenant taketh to wyfe, if he haue many wyues, and by eche of them ha

ylue

issue, yet eche one of these issues by possibilitie
maye inherite the tenementes by force of the
saide gifte, because that every such issue is of
his body engendered.

In the same maner is, where landes and te-
nementes bee geuen to a woman and to the
heires coming out of her body, howbeit that
shee haue manye husbandes, yet the issue that
shee may haue by eche husband, maye inherite
his parte in the taylor by force of suche gifte.
And therefore such giftes bene called generall
taile.

Tenementes in taile speciall, is where landes
and tenementes bee geuen unto a man & his
wyfe and the heires of theire two bodies be-
gotten. In such case none may inherite by force
of suche gifte, but those that bee engendered be-
twene them two, & it is called especial taylor,
for that if the wyfe dye, and hee taketh an other
wyfe & hath issue, the issue of the second wyfe
shall neuer inherite by force of such gifte. Nor
also the issue of the second husband if the first
husband dye.

In the same maner it is, where landes and
tenementes bee geuen by a man unto an o-
ther wyche or wyfe, whiche is the daughter or
sonne of the geuer in frank marriage, whiche
gifte hath inheritance by these wordes, frank
marriage with me annexed, howbeit that they
bee not expressly said or schewed in the gifte,
tharunto saye, that those donces that haue
the landes or tenementes to them & to thaire
heires

Fee taile.

heires betwene two engendred, and thys ys
said especial taile, for that the issue of the second
wife may not inherite.

And note well, that thys woorde talliare, is
to say, to set vnto some certaintie, or els limite
vnto some certain inheritaunce. And for that
that it is limit & set in certain, what issue shal
inherit by force of suche giftes, and how long
that the inheritaunce shal endure. Therefore it
is called in latten. *Feodum talliatum*. i. here-
ditas in quadam certitudine limitata. For if te-
nant in general tayle dye without issue, the do-
mour or his heires shal inherite as in their re-
uersion. In the same wise is of the tenant in
the taile special &c. For in every gift of $\frac{1}{2}$ taile
without moze saying, the reuersion of fee sim-
ple is in the donour.

And the donees and theire heires shal doe
to the donour and to his heires, suche seruises
as $\frac{1}{2}$ donour dooth vnto his Lord next aboue.
Excepte the donees in frank marriage, whiche
shall holde quietly from euerye maner seruise,
(but if it bee for fealtye) vntil the fourth de-
gree bee past. And after that the fourth degree
is past, the issue in the fift degree, and so fourth
the other issues after hym, shal holde of the do-
nour and of his heires as they hold ouer as is
aforesaid.

And the degrees in franke marriage shalbee
accompted in suche maner, that is to say, from
the donour to the donees in frank marriage the
first degree, for that that the wife that is one
of

of the donees oughte to bee daughter sister or
other cosyn to the donoure. And from the do-
nees vnto their issue shalbe accompted the se-
cond degree. And from their issue vnto their
issue, the thirde degree & so fourth &c.

And the cause is, for that after euery such
gifte, the issues that come of the donoure, and
the issues that come of the donees after the
fourth degree passe of bothe parties in suche
fourme to bee accompted, may betwixt them
by the law of holy church intermarrye. And that
the donee in franke mariage shalbe the firste
degree of the former degrees, a man may see in
a plee vpon a wytte of righte of ward, anno
31. E. 3. where the pleintife pleadeth that his
ayel or graundfather was seyled of certayne
landes &c. And that hee helde of another by
knight seruice &c. whiche gaue the lande vnto
one Raufe Holland with his sister in franke
mariage &c. And also thise tailles before saide
bee specified in the saide estatute of Westmin-
ster the second.

And there bee dyuers other estates in the
taile, howbeit that they bee not specified by
expresse wordes in the said estatute, but they
bee taken by the equitie of the statute, as yf
lands bee geuen vnto a man and to his heirs
males of his body engendred. In suche case
his heire male shall inherite, and the issue fe-
male shall neuer inherite, yet in these other
tailles aforesaid it is otherwise. In the same
maner it is if landes bee geuen to a man, and

Fee tayle.

to his heires females of his body engendred. In this case hys issue females shall inheryte by force & forme of the said gift and not the issue male, for that in suche cases where the gift is, who ought to inherit and who not, the will of the donour shalbe obserued. And yf case where landes bee geuen vnto a man and to his heires males issuing of his body, & he hath issue two sonnes and deceaseth, the elder sonne entreteth as heire male, and hath issue a daughter and deceaseth, his brother shal haue the lande & not the daughter, for that the brother is heire male. But it shalbee otherwise in these other tayles aforesaide, which been especified in the saide estatute, the daughter shall inherite before the brother.

And if lande be geuen vnto a man, and to his heires males of his body engendred & hee hath issue a daughter, whiche hath issue a sone and deceaseth and after that the donour deceaseth: in this case the sonne of y daughter shall not inheryte by force of the taile, for that who soeuer shall inheryte by force of a gifte in the taile made vnto his heires males behoueth to conuey his discent away by the males, *W. 18. Edward tertij folio. 45.* But in suche case the donoure shall enter for that the donee ys dead wythout issue male in the lawe. In so muche that the issue of the daughter maye not conuey to him the discent of heire male. And in the same maner it is where landes bee geuen to a man and to his wife and to his heires males

males of their two bodies ingendzed.

Also if tenements bee geuen to a man and his wyfe, and to the heires of the bodye of the man engendzed, in this case the husband hath estate in the generall taile & the wife but estate for terme of lyfe.

Also if landes bee geuen to the husbände and to the wyfe, and to the heires of the husbände whiche hee engendzeth of the bodye of the wyfe. In this case the husband hath estate in the speciall taile, and the wife but for terme of lyfe.

And if the giste bee made to the husbände and to the wyfe, and to the heires of the wyfe of her bodye by the husbände engendzed, then the wyfe hath estate in the speciall taile, and the husband but for terme of lyfe. But if lands be geuen to the husbände and the wyfe, & to the heires that the husbände engendzeth on the bodye of the wyfe: In this case both haue estate in the taile, for that thys woorde (heires) is not limited no moze to the one then to the other.

Also if landes be geuen to a man and hys heires that hee engendzeth on the body of hys wyfe, in this case the husband hath estate in & taile speciall, and the wyfe nothing.

Also if a man haue issue a sonne, and deceaseth, and the land is geuen to the sonne, and to the heire of the body of his father ingendzed, this is a good taile, & yet the father was dead at the tyme of the gift.

Also

Tenaunt in taile.

Also there be many other estates in y^e taile by the equitie of the saide estatute that bee not specified heere. But if a man geue landes or tenementes to another to haue and to holde to him and to his heires males, or to his heires females, he to whome such gift is made hath fee simple, for that it is not limited by the gift of what body the issue male or female shal be, and so it may not in any thing be taken by the equitie of the said estatut, and therfore hee hath fee simple.

Tenaunt in taile after possibilitie of issue extinct.

Tenaunt in the taile after possibilitie of the issue extinct, is where as landes or tenementes bee geuen vnto a man and his wife in special taile, if one of them decease without issue, hee that suruiueth is tenant in the taile after possibilitie of issue extinct. And if they haue issue during the lyfe of the issue, hee that suruiueth shal not bee said tenaunt in the taile after possibilitie of issue extinct. Yet if the issue decease without issue, so that there be none alpye that may inherite by force of the taile, then he that suruiueth of the donees is tenaunt in y^e taile after possibilitie of issue extinct.

Also if landes bee geuen to a man and to his heires that bee engendred on the bodye of his wife. In this case the wife hath noughte in the tenementes, and the husbande is seyd
led

led as done in special taile. And in this case if the wife decease without issue of her body engendered by her husband, then the husband is tennaunte in the taile after possibilitie of yssue extinct.

And note well, that none maye bee tennaunt in the taile after possibilitie of yssue extincte, but one of the donees, or the donee in speciall taile, for the donee in generall taile may neuer be saide tennaunt in the taile after possibilitie of issue extinct, for that alway during his lyfe, he may by possibilitie haue issue that may inherite by force of the same taile. And so in the same maner the issue that is heire vnto the donees in a speciall taile, maye not bee sayde tennaunte in taile after possibilitie sc. causa qua supra.

And tenant in taile after possibilitie of yssue extinct shall neuer bee punished of wast, for þ inheritaunce that once was in him. An. 10. B. 4. fo. 1. But hee in the reuercion maye enter yf hee doth alien in fee. An. 45. E. 3. fo. 22.

Tenant by the curtesie of Englande.

Tennaunt by the curtesye of Englande, is where a man takethe a wyfe seyled in fee simple, or in fee taile generall, or as heire in the taile speciall, and hathe yssue by the same wyfe, male or female. The yssue after beeing dead or alpye, if the wyfe decease, the husband shall hold the same duringe hys lyfe by þ lawe of

of England, & this is called tenant by & cur-
tesy, for that it is not used in none other realme
but onely in Englande. And some say that it
shall not bee said tenant by the curtesy, but yf
that childe that hee hath by his wife bechorde
erpe, for by the erpe is the proöfe that yf childe
that hee had by his wife was borne.

Tenant in Dower.

Tenant in dower is, wher a woman is seised
of certein lands or tenements in fee simple,
or in tale general, or as heire in & tale special,
and taketh a wife and deceaseth, the wife after
the decease of her husbande shalbee endow-
ed of the thirde parte of suche landes or tenemen-
tes that were her husbandes anye tyme du-
ringe the couerture, to haue and to holde to the
same wife in feuerall tyme by metes and bondes
for terme of her lyfe, whether shee haue by her
husbande yllne or none, and of what age that
the wife bee, so that shee passe the age of nyne
yeres at the tyme of her husbandes deathe, or
els shee shall not bee endow-
ed. And note wel,
that by the common lawe the wife shal not ha-
ue for her dower but the thirde parte of the te-
nementes, whiche were her husbandes during
the couerture. By custome of some countreys
shee shal haue the halfe, and by custome of some
towne or borough, shee shall haue the whole,
and in all these cases shee shalbee sayde tenant
in dower.

Also there is two other manner of dowers, that is to saye, dower called dowement in the church-dooze, and dower called dowement by the fathers assent. Dowement at the Church-dooze is where a mā of full age is seised in fee simple whiche shall bee wedded vnto a wyfe, when hee cometh to the church-dooze, and there after affiaunce, and true the plight made betweene them, endoweth his wyfe of hys whole lande, or of the halfe or lesse parcell, and there openly declareth the quantitie & the certaine of his lande that shee shall haue for her dower. In thys case the wyfe after the deathe of her husbände shall enter into the said quantitie of lande, of whiche her husbände endoweth her without the assignement of anye man. Dowement by the fathers assente, is where the father is seised of tenementes in fee, and hys sonne and hys apperaunt when hee is wedded, endoweth his wyfe at the Church-dooze of parcell of the landes or tenementes of his fathers of the assent of his father, and assigneth the quantitie of the parcelles. In this case after the death of the sonne, the wyfe shall enter in the same parcell without the assignement of any other. But it hath ben said in this case that it behoueth the wyfe to haue a decede of the father, prouinge his assent and consent of suche endowment. And if after the deathe of the husbände shee enter and agree to anye suche dower of the sayde twoo dowers at the church-dooze, then she is concluded to claime

B. i. anye

Dower.

anye other Dower by the common lawe of a-
nye landes or tenementes, which were of her
saide husbände: But if shee will, shee may re-
fuse suche Dower at the churche dooze, and
then shee may bee endowed after the course of
the common lawe. And note well, that no
wyfe shall bee endowed of the fathers assent
in the fourme aforesaide, save where the hus-
bände is sonne and heire apparaunt to his fa-
ther.

¶ Inquire of these two cases of Endowe-
ment at the churche dooze, if the wyfe at the
tyme of the deathe of her husbände passe not
the age of nine yeres, if shee shall haue suche
Dower or no.

¶ And note wel, that in all cases where the
certayntie appeareth what landes or tene-
mentes the wyfe shall haue for her Dower,
the wyfe maye enter after the deathe of her
husbände wythoute assignement of anye o-
ther. But where the certayntie appeareth
not, as to bee endowed of the thirde parte to
haue in severall, or to bee endowed of the
halfe after the custome to holde in seueraltie:
In suche cases it behooveth that her Dower
bee vnto her assigned after the deathe of her
husbände, because it is not s^umitted befoze
the assignement what partes of landes or te-
nementes shee shall haue for her Dower. But
yf there bee twoe ioyntenauntes of certayne
landes in fee, and the one alieneth that, that
to hym pertayneth and becomgeth, to ano-
ther

ther in fee, which taketh a wife and after dyeth: In this case the wife for her dower shall haue the thirde parte of the halfe that her husbande purchased, to holde in common and occupancy in common as her part amounteth with the heire of her husbande, and wyth the other tynテナunt which aliened not, for y^e in suche case her dower may be assigned by metes and boundes.

¶ And it is to vnderstand, that the wyfe shall not be endowed of landes or tenementes that her husband iointly held wyth another at the tyme of his death. But where he holdeth in common otherwise it is, as in the case aforesaide. And it is to witt that if the tenaunt in taylor endowe his wife at the churche doore as it is aforesaid, y^e shall serue for little or naught to the wife for that after the death of her husband the issue in the taile may enter vpon the possession of the wife, & so may he in the reuerfion if there be none issue in y^e taile alive.

¶ Also if a man seised in fee simple being within age endowe his wife at the Churche doore & dyeth, and the wife entreth. In this case the heire of the husband may put her out. But otherwise it is as it seemeth where the father is seised in fee, and the sonne within age endow his wife of his fathers assent the father then being of full age.

¶ Also there is another Dower whyche is called Dowement de la pluiz beale. And that is as in suche case that a man is seised

Dower.

of xl. acres of lande, and hee holdeth xx. of the said xl. acres of one man by knyghtes seruice, and the other xx. acres of another in socage, & taketh a wife and hath issue a sonne, and byeth his sonne being in the age of 14. yeres, and the lord of whome the lande is holden by knyghtes seruice entrecheth into the xx. acres of lande holden of him, and them hath and occuppeth as warden in chivalrye during the childes nonage, and the childes mother entrecheth in the remnaunt, and it occuppeth as garden or warden in socage. If in this case the wyfe bringe a writte of Dower agaynste the warden in chivalrye to bee endowd of the tenementes holden by knyghtes seruice in the kings court or in anye other court, the warden in chivalrye may plede in suche case all the matter and shewe howe the wife is warden in socage as it is aforesaid, and prayed that it may be adudged by the court that the wife endowe her selfe of the most faire called pluis beale of the tenementes that shee hath as warden in socage after the value of the thirde parte that she claimeth to haue of the tenementes in chivalrye by her writte of dower, and if the wyfe may not gain say it, then the iugemēt shalbee made that the warden in chivalrye shal holde the landes holden of him duringe the nonage of the childe quite from the woman &c. And that the woman maye endowe her selfe of the most faire parte of the lands that she hath, as wardayne in socage to the value of the thirde parte

part that the wardein in chivalry hath &c.
 And after suche iudgement geuen, the wife
 may take hir neighbours, and in theyr presen-
 ce endowe hir selfe by meetes and boundes of
 the sayrest part of the tenementes that shee hath,
 as wardein in socage to the value of the thirde
 part of the lands that the wardein in chivalry
 hath, and that to haue and holde for terme of
 hir lyfe. And such dower is called dower of the
 fairest parte, or de pluvis beale.

[With this agreeth B. xlv. Ed. ij. fo. 4. But
 there it was sayde, that after the time that the
 heyre come to his full age, the wife shall haue
 a newe accion of dower against the heire to be
 endowd of the thirde part of all that the man
 died seised. And note well that such dowerment
 may not be, but where the iudgement is giuen
 in the kings court, or in some other court. And
 the wife may doe this for saluacion of the state
 of the wardein in chivalry during the nonage
 of the childe. And so ye may see fure maner of
 dowers, that is to say dowerment by the com-
 mon Lawe, dower by custome, dower at the
 churche doore, dower of the fathers assent, and
 dower of the most sayre. And remember that
 in euery case where a man taketh a wife se-
 sed of suche estate of tenementes &c. so that the
 issue that he hath by his wife may by possibil-
 ty inherite the same tenementes of suche estate
 that the wife hath, as heyre to the wyfe: In
 such case after the wyfe is dead, he shall haue
 the same tenementes by the courtsey of Eng-

Dower.

land and otherwise not.

And also in euery case where the wyfe taketh an husbände seyled of suche estate of tenementes &c. so that by possibilitie it may happe the wyfe to haue some issue by hir husbände, & that the same issue may by possibilitie inherite the same tenemētys of such estate that the husbände had, as heyre to his father, of such tenementes she shal haue hir dower, and otherwise not. For if the tenementes bee geuen vnto a man and to the heires that he getteth on his wyfes body, in suche case the wyfe hath nought in the tenements. And the husband hath estate but as done in speciall taile. Yet if the husband die without issue, & same wyfe shalbe endowed of the same tenementes, for that the issue that she by possibilitie might haue had by the same husbād, may inherite the same tenemētys. But if the wyfe decease liuing the husbände, & after taketh another wyfe, the second wyfe shall not be endowed in this case. *Causa qua supra.*

A man was seyled of certayne landes, and tooke wyfe, and after aliened the same landes wpyth warrantie, and after the feoffour and feoffee dyed, and the wyfe of the feoffour bringeth an action of dower agaynste the yssue of the feoffee, and here vouched the heyre of the feoffour, and duringe the voucher and not terminated, the wyfe of the feoffee bringeth an action of dower agaynste the heire of the feoffee, and demaundeth the thirde part of all that hir housbände was seyled, and woulde not demaunde

Tenant for terme of lyfe fol. 12.

maunde the third part of those two parties & her husbände was seised, it was iudged & shee should haue no iudgement vntil the time & the other plee were determined.

And also note that Clauisour saith, that if a man be seised of landes & committeth felony, & alieneth, & after is attainted, the wife shall haue good action of dower against the feoffee. But if it be escheted vnto the king or vnto the Lord, she shal haue no writ of dower. And so see & diuersitie, and inquire the cause.

¶ Tenant for terme of life.

TENANT for terme of lyfe is, where a man leterhe landes or tenementes to a man for terme of lyfe of the lessee, or for terme of life of an other man. In suche case the lessee is tenant for terme of life. But by common language, hee that holdeth for terme of his owne lyfe, is called tenaunt for terme of life, and hee that holdeth for terme of an other mans lyfe, is called tenaunt for terme of an other mans lyfe. And it is to be vnderstande, that ther is feoffour and feoffee, donour and donee, lessour & lessee. The feoffour is properly wher a man enfeoffeth an other in anye landes or tenements in fee simple, he that maketh the feoffement is called feoffour, & he vnto whom the feoffement is made, is called feoffee, and the donoure is properly wher a manne geueth certayne landes, or tenementes to an other in

Tenant for terme of yeres.

the taile, he that maketh the giste is called donor, and he to whom the gift is made is called donee. And lessoure is propriety where a man letteth to an other certaine landes or tenements for terme of lyfe, for terme of yeres, or to holde at will, he that maketh the lease is called lessour, & he to whom the lease is made is called lessee, and euery one that hath estate in landes or tenements for terme of his owne life, or for terme of another mans lyfe, is called ternaunt of free holde. And none of lesse estate may haue free holde, but theye of greater estate may haue free holde, for ternaunt in fee simple hath free holde, and ternaunt in the taile hath also free holde.

Ternaunt for terme of yeres. Cap. vij.

Tenant for terme of yeres is, where a man letteth landes or tenementes to an other for terme of certaine yeres after the number of yeres that is accorded betwene the lessour & the lessee, and when the lessee entreth by force of the lease the is he tenant for terme of yeres, and if the lessour in such case reserve to him a yerely rent vpon suche lease, hee may chose for to distreine for the rent in the tenementes letten, or else hee maye take an adion of debte for the arrerages againste the lessee. But in such case it becometh that the lessour bee seised in the same tenementes at the time of his lease for
it is

Tenant for terme of yerres fo. 13.

it is a good ple for the lessee to say that the lessour had nothing in the tenements at the time of the lease, except the lease bee made by deede indented, in whiche case then suche plee lieth not for the lessee to plede.

¶ And it is to be vnderstand that in a leas for terme of yeaers by deede or without deede, it needeth no livery of seisin to be made to the lessee, but he maye enter whensoever he wil by force of y same leas. But of scoffemētis made in the countrey or giffes in the taylor, or leases for terme of life, in suche cases wher free hold shall passe if it by deede or without deede, it behoueth to haue livery of seisin &c. But yf a man let landes or tenementis by deede or without deede for terme of yerres, the remainder ouer to an other for terme of lyfe, or in the tail or in fee, then in such case it behoueth that the lessour make livery of seisin to y lessee for terme of yeaers, or else there shall nothinge passe to them in the remainder, though the lessee enter in the tenementes. And if the termour in such case enter before any such livery of seisin made vnto him, then is the free holde and the reuercion in the lessour. But if he make any luerie of seisin vnto the lessee, then is y free holde & the fee to them in the remainder after y forme of the graunt & wil of the lessour.

¶ And if a man wyll make a scoffement by deede or without deede of landes or tenementes that hee hathe in manye towne in one shire, yf the luerie of seisin bee made in one parcell

Tenant for terme of yeres.

parcell of the tenementes in one toſone in the name of all, it ſuffiſeth for all the other lands or tenementes comprehended in the ſame ſcoffement, in all other toſones in the ſame ſhire. But if a manne make a deede of ſcoffement of lands or tenementes in diuers ſhires, ther it behoueth him to haue in euery ſhire a liuerpe of ſeiſin. And in ſuch caſe a man ſhall haue by the graunt of another fee ſimple, fee tall, or fee hold without liuery of ſeiſin. And if .ij. mē be, & eche of them is ſeiſed of a quantyte of lande within one ſhire, & the one graunteth his lād to the other in exchange for that land that the other hath, & in the ſame maner ꝑ other graunteth his land vnto ꝑ firſt grauntoꝝ in exchange for ꝑ lād ꝑ the firſt grauntoꝝ hath: In this caſe eche may enter in the others lands ſo taken in exchange without any liuery of ſeiſin. And ſuch exchange made by woꝝds of tenementes within the ſame ſhire without anye writinge is good inough. And if the landes or tenementes be in diuers ſhires, ꝑ is to ſaye, if that the one haue in one ſhire, & the other haue in another ſhire, it behoueth to haue a deede indented made, beſwene them of ſuch exchange.

¶ And note, that in exchange it behoueth ꝑ the eſtates that bothe parties haue in the landes ſo exchanged be equal. For if the one willethe and graunteth ꝑ the other ſhal haue hys lande in the taylor, for the lande that he hath of the graunte of the other in fee ſimple, though the other is agreed to that, yet this exchange is but

Tenant for terme of yeres. 14

is but boyde for that the estates be not euen.

In the same maner it is where it is graunted and agreed betwene them that y one shall haue in the one land fee tayle, & the other shall haue in the other land but terme of lyfe. Or yf one shall haue in the one lande fee tayle general, and the other in the other land fee taile especial. So alwaye it behoueth that in exchaunge the estate of both parties be euen, that is to say if that one haue fee simple in the one land, that the other shal haue such estate in the other lād, and if the one hath fee tayle in the one lande, then the other shall haue likewise in the other lande. Et sic de alijs statibus. But it is nothinge to charge of the euen value of the lāds, for though that the land of the one is so muche moze in value than the lande of the other, this is nothing to purpose, so that the estates made by the exchaunge bee euen, and so in exchaunge bee two grauntes, for euerye parte graunteth his lande to the other in exchaunge, and in eche of their grauntes mencion shalbee made of the exchaunge.

And if a man let lande to another for terme of yeres though the lessour die before the lessee enter into the tenementes, yet may he enter in to the tenementes after the death of y lessour, for that, that y lessee by force of the lease, hath ryght incontinent to haue the tenementes after the fourme of the lease. But yf a manne make a dede of feoffement vnto another, and a letter of attorney to a man to deliuer to hym seisin

Tenant at will.

seisin by force of & same deed, yet if the livery of seisin bee not made in the life of hym that made the deed, it awayleth not, for that the other hath no manner of right to have the tenements after the purpose of the deed before & livery of seisin &c. And yf no livery bee made the after the death of him that made the deed & right of suche tenements is continent in hys heire or in some other. Also if tenementes bee let to a man for terme of halfe a yere, or for terme of a quarter of a yere. &c. In suche case if the lesse make waste, the lessour shall have agaynst hym a writte of waste, and the writte shall say: *Qui tenet ad terminum annozum.* But hee shall have a speciall declaration vpon the trowth of his matter, and the plet shall not abate the writ for that that hee maye have no other writ vpon the matter. An. 7. H. 7. fo. 1.

Tenant at will. Ca. 8.

Tenant at will is, where landes or tenements bee letten by a man vnto an other, to haue and to holde to him at the will of the lessour, by force of which lease the lesse is in possession. In suchecase the lessee is called tenant at will, for that he hath no certain sure estate, for the lessor may put him oute at what time it please the hym, yet if the lessee sowe the lande and the lessoure after the sowinge and before that his graynes bee ripe putteth hym out, yet shall the lessee haue his greynes, and shal haue free egress and regress to reape and to carpe his

Tenaunt at will. Fo. 15.

hys greines, for that he wist not at what time his lessour would enter vpon him. Otherwise it is if tenant for terme of yeres befoze the end of his terme soweth the land, and the term is ended befoze that his graines be ripe. In this case the lessour, or he in the reuerfion shal haue the greyness, for that the fermour knewe well the certeine of his terme and when his terme should be ended.

¶ Also if an house bee let to a man to holde at will, by force of whiche the lessee entreteth into the house, within which house he bringeth his houtholde stuffe, and after the lessour putteth him out, yet shall hee haue free entre, egress and regresse in the same house by reasonable tyme to carry his goods and houtholde stuffe. And if a man be seised of a house in fee simple, fee taile, or for terme of yere, the whiche hath certaine goodes within the same house, and maketh his executours and deceaseth, who soeuer after his death hath the house yet shall his executours haue free entre, egress and regresse to carpe out of the house the goodes of their testatours by a reasonable time.

¶ Also if a man make a deede of feoffement vnto another of certeine lande, and deliuereth to him $\frac{1}{2}$ deede but no liuery of seisin. In this case he to whom the deede is made may enter into the land. and holde & occupy it at the will of him that made the deede for that, that is p- ued by the wordes of the deede, that it is hys will that the other shall haue the lande. But he that

Copy of court roll.

he that made the dede, may put him out when he will.

Also if en house be let to holde at wyll, the lessee is not holden to sustayne or reparaire the house, as tenaunt for terme of yeres is holden to do. But if the lessee at will make voluntary wast, as in pulling downe of houses, or in cutting or felling of trees: It is sayd that the lessour shal haue for that againste hym an action of trespas. As if I deliuer to a man my shepe to dong or marle his lande, or mine oxen to ayre his lande, and hee slayeth my beast, I may wel haue an action of trespas against him notwithstanding the deliuey.

Also if the lessour vpon such lease at will reserue vnto him a yerely rent, hee maye dystreyn for the rent behynde, or to haue for that an action of dett at his own choise. **H. 6. R. 2.** in Repleyn.

Tenaunt by copy of court rolle. **Cap. 9.**

Tenaunt by copy of court roll, is as if a man bee seysed of a maner within which maner there is a custome, and hath becne vsed in tyme out of mynde, that certeyne tenauntes within the same maner haue vsed to haue lades or tenementes to holde to them & to their heires in fee simple or in fee tayle, or for terme of lyfe &c at the will of the lord, after the custome of the same maner, and suche tenaunt maye not alyene the lande by dede, for than
the

Copy of court roule. Fo. 16

the Lorde may enter as in a thinge forsayte to him. But if hee will aliene his lande to another, hym behoouethe after some custome to surrender the tenementes in some courte &c. into the Lordes handes to the vse of him that shal haue the estate in suche courme, or to such effect. Ad hanc curiam venit A. de B. & sursum reddidit in eadem curia, vnum mesuagium &c. in manibus domini ad vsum. C. de A. & heredum suorum vel heredum de corpore suo exeunt vel pro termino vite sue &c. Et super hoc venit predictus C. de A. & cepit de domino in eadem curia, mesuagium predictum &c. habendum & tenendum sibi & heredibus suis, vel sibi & heredibus de corpore suo exeuntibus, vel sibi, ad terminum vite sue, ad voluntatem domini secundum consuetudinem manerii, faciendo & reddendo inde redditus, debita seruicia, consuetudines inde prius debitas, & de iure consuetas, & dat domino de fine &c. Et fecit domino fidelitatem &c. That is to say A. of B. cometh vnto this court, and surrendreth in the same courte a mese &c. into the handes of the Lorde, to the vse of C. of A. and hys heires, or to the heires, issuyng of his bodye or for terme of lyfe &c. And vppon that cometh the forsayde C. of A. and taketh of the Lorde of the same court, the forsayde mese &c. to haue and to holde to him and to his heirs, & to him or to his heires issuyng of his bodye, or to him for term of life at y lordes will after custome of y maner, to do & yeld there-

Copy of court roule.

theresore rents, dettes, seruices, and customes
thereof beefore due and accustomed &c. & gee-
ueth the Lord for a fyne &c. and maketh vn-
to the lord his fealtie &c. And such tenaunts
been called tenautes by Cope of court rolle,
for that theye haue none other euidence con-
cernynge their tenementes, but the copies of
the court rolles, and suche tenaunts shall not
implede nor bee impleded of their tenementes
by the kings writ but if they will implede o-
ther for their tenemts they shal haue a plaint
made in the court of the lord in suche fourme
or to such effect *I. de B. queritur vers^o C. de
D. de placito terre, videlicet de vno mesua-
gio quadraginta acris terre quatuor acris pra-
ti &c. cum pertinentijs. Et facit protestacio-
nem sequi querelam istam in natura breuis
domini Regis assise mortis antecessoris ad
communem legem, vel breuis domini Regis
assise noue disseisine ad communem legem.*
That is to say *I. of B.* complaineth againste
C. or D. of a plee of lande, that is for to saue
of a mese, and xl. acres of lande, forwer acres
medowe &c. with the appurtenances, and ma-
keth protestacion to sue his playnte in nature
of the kings writ of assise of the deathe of hys
antecessoure at the common lawe, or by writ
of our soueraigne lord the king of assise of no-
uel disseisin at the commō law, or in nature of
somme other writte &c. pledges and processe
&c. And though that some suche tenants haue
inheritance after the custome and maner, yet
they

Copy of courtrolle. fo.17

they haue none estate but at the Lordes Will
 & after the course of the common law, for it is
 saide, if the lord put them out, they haue none
 other remedy but to sue vnto the lord by pe-
 tition. For if they had any other remedy, they
 should not be saide tenants at the lordes Will
 after the custome of the manner, but the lord
 will not breake the custome that is reasonable
 in such cases. But Wyan chiefe Justice sai-
 eth, that his oppinion alwayes hath beene and
 alwayes shalbee, if such a tenant by custome
 (paying his seruices) bee cast out by the lord
 he shall haue an accio of Trespas against him
 H. 21. C. 4. And likewise was the oppinion
 of Danby chief Justice. Mich. 7. C. 4. for hee
 sayeth that the tenaunt by the custome is as-
 well inherite to haue his land after the custome
 aswell as he that hath franktenement by the
 common law.

Tenauntes by the parde be in suche nature
 as tenauntes by coppe of court roulle. But
 the cause for whiche they bee called tenauntes
 by the rodde or parde is, for that when they
 will surrender theirre tenementes into the
 Lordes hande to the vse of another they shall
 haue a lytle parde or rodde by the custome and
 vse in theirre handes, which they shall delyuer
 vnto the steward or baylife, after the cus-
 tome and vse of the Maner. And he that shal
 haue the lande, shal take the same land in the
 court, & his taking shalbe entred in the roull.
 And the Steward or the bailife, according to

C. i.

the

Copy of court rolle.

the custome, shall deliuer vnto hym that taketh the land, the same parde oz another pard in the name of seyn. And for thys cause they be called tenauntes by the parde. But they haue none other euydence but copy of y court rolle.

¶ And also in diuers lordshippes and manours there is suche custome, if such a tenant that holdeth by the custome wyll alpyne hys landes oz tencementes hee maye surrender hys landes vnto the Bapltic oz to the Reeue, oz to two sad men of the same lordship, to the vse of him that shall haue the lande, to haue in fee simple, fee tayle, oz for terme of yfe &c. and all that, shall hee present at the next courte. And then hee that shall haue the lande by coppe of court rolle, shall haue the same lande after the entent of the surrender. Also it is to wote that in diuers lordshippes and diuers maners there be made dyuers customes, in suche case, as to take tenauntes & as to plede, and as touching other thinges and custome to be done, & al that, that is not againste reason may well be admitted and allowed. And such tenauntes that hold after the custome of a seignourye, oz after y custom of a Maner, though they haue estate of inheritaunce after the custome of the lordship oz of the maner, yet because they haue not any free hold by the course of the comyn lawe, they be called tenants by base tenure.

¶ And dyuers diuersities there be betwene a tenaunt at will which is in by the lesse of hys lessour

Copy of courtrolle. fo. 18

lessour by the course of the common law, and tenant after the custome & maner in y^e fourme aforesayde. For tenaunt at will after the custome may haue estate of inheritaunce as it is aforesaid at the Lordes will after the custome and vsage of the maner. But if a man haue lands oz tenementes which be not within such maner oz lordship where suche custome hath been v^sed in the fourme aforesayde, and wⁱll let suche landes oz tenementes to another, to haue and to hold to hym and to hys heirs at the will of hys lessour these wordes, to the heirs of the lessee bee bo^ode, for thys ys the cause if the lessee dye and hys heire entrethe, the lessour shall haue a good action of trespass against him, but not so agaynst the heire of the tenaunt by the custome &c. in any case for that the custome of the manner in some case maye helpe him to barre hys Lorde in anye action of trespass.

¶ Also tenaunt by the custome in some places ought to repayre and sustaine the houses and the other tenaunt at will ought not.

¶ Also one by the custome shall doe sealtie & the other not. And dyuers other diuersities there be betwene them.

¶ Thus endeth the first booke.

C. ff.

C. bo.

Homage.



Homage is the most honorable service and most humble service of reverence that a franktenant may do to his Lord. For when the tenant shall make homage to his Lord he shall descende & his head uncovered, & his Lord shall sit, and the tenant shall kneele before him on both his knees, and hold his handes jointly together betwene the hands of his Lord, and shall say thus. I become your man from this day forward of lyfe & limme & of earthly woozship & unto you shall be true & faithfull, and beare you faith of the tenementes that I clayme to holde of you saving the faith that I owe unto our soueraigne Lord the kinge. And then the lord so sitting shall kisse him.

But if an Abbot or a Priour or any other man of religion shall make homage unto his Lorde, hee shall not saye, I become your man for that hee hath professed himself onely to be Gods man. But hee shall thus, I doe you homage and unto you shall be true and faithfull, and beare you faith for the tenementes that I clayme to holde of you. Saupnge the faith that I owe unto our soueraigne Lorde the kyng.

Also if a woman sole shall make homage unto her Lorde, shee shall not saye I become your woman, for that is not convenient for a woman to saye that shee shall become the woman to anye but only to her husband

bande when she is wedded. But shee shall say
 I make vnto you homage, and to you shalbee
 true and faithfull, and shall beare you sayth of
 the tenementes that I hold of you, sauing the
 sayth that I owe to our soueraygne Lord the
 kynge.

But if a man haue several tenancies which
 he holdeth of severall Lordes, that is to say, e-
 uery tenancy by homage. Then when he ma-
 keth homage vnto one of his Lordes, he shall
 say in the ende of his homage. Hauynge the
 sayth that I owe, vnto the kinge and vnto my
 other Lordes.

¶ And note well that none make homage
 but suche as hath the estate in fee simple or in fee
 taylor in his owne righte or in an other mans
 right. For it is a grounde in the lawe, that he
 that hath estate but for terme of life, shal make
 none homage nor take none homage.

For yf a woman haue landes or tenementes
 in fee simple or in fee taylor whych she holdeth
 of hir Lorde by homage, and taketh an hous-
 bande and hath issue, then the housband in the
 life of the wyfe shall make homage, for that he
 hath tyele to haue the lande by the curtesye if
 he suruiue his wyfe. And also he holdeth in y
 righte of hys wyfe. But afore issue betwene
 them, the homage shalbee made in both theyre
 names. But yf the wyfe decease before homa-
 ge made by the housbande in the wyfes lyfe,
 and the husband holdeth hym selfe in as tenat
 by the curtesye, hee shall make no homage vnto

¶ C. 11.

his

Fealty.

his Lord, for that he hath then none estate but for terme of life. Whoze shalbe sayde of homage in the tenure of homage auncestrell.

Fealtie. Cap. 2.

Fealtie is as muche to say as fidelitas in Latine, and when a franktenaunt shall make fealtie vnto the Lord hee shall holde his right hande vpon a booke and shall say thus.

Wear you this my Lord, & I vnto you shall be faithfull and true, and beare you faith of the landes or tenements that I clayme to hold of you, and truly to you shall doe the customes & seruices that I oughte to doe vnto you at termes assigned, as God me helpe & all his saintes, and then he kisseth the booke. But he shall not knele when he maketh his fealtie, nor shall make such humble reuerence as is aforesaid in homage. And great diuersity there is had betwene making of fealtie & of homage. For homage may not bee made but to the Lord hym selfe. But the Stewarde of the Lordes court or the battylle may take fealtie for the Lord.

Also tenaunt for terme of lyfe shall make fealtie, and yet he shall make none homage, & diuers other diuersities there be betwene homage and fealtie.

Also a man maye see a good note. Anno 15. E. 3. where and how a man and his wyfe made homage and fealtie in the comon banke, whyche is wyrtten in suche fourme. Note that

that Ihon Lesknoꝝ and Elizabeth his wife
made homage vnto William Thorpe in thys
maner. The one & the other held jointly their
hands betwene the hands of William Thorpe
& the husband said in this wise. Wee vnto you
make homage, and beare you sayth for the lā-
des y^e wee hold of you your conusour, whiche
hath graunted you our seruices in B. & in C.
& the other to wnes &c. against all men, sayng
the faith y^e wee owe vnto our leueraigne lord
the king & to his heires, & to oure other lords,
& y^e one & the other kissed him. And after thepe
made fealtie, & the one & the other helde there
handes together vpon a boke, & the husbände
said the words, & both kissed the booke. Wher
shalbe said of fealtie in the tenure of Socage,
& in the tenure of frank almoigne, & in the te-
nure of homage auncestreil.

¶ Escuage.

Escuage is called in latin, Scutagium, that
is to say seruice of shielde. And such a tenā
that holdeth his lande by escuage, holdeth by
knightes seruice. And also it is commōly said,
that some holde by a fee of knightes seruice, &
some by the halfe fee of a knightes seruice &c.
And it is said y^e when the king maketh a voy-
age roial into Scotlā for to subdue y^e Scots
hee that holdeth by a fee of knyghtes scrupce,
behoueth to be with the king by xl. dayes wel
and conuenably arrayed for the warre. And

C. liij.

libe.

Escuage.

likewise hee & holdeth his lande by the halfe of a fee by knightes seruice, ought to be with the king by .xx. dayes. And hee & holdeth his lande by the fowerth part of a fee by knightes seruice, him behoueth to be with the king by .x. dayes. And so after the quantitie, hee & hath more, to do more, and hee & hath lesse, to doe lesse. But it appeareth by the ples and argumentes made in a good plee bypon a wyrt of Detenue of an obligaciō brought by one Henry Gray. In. 7. E. 3. that it nedeth not to him that holdeth by escuage to goe him selfe, if hee will find an hable person for the warre conveniently arrayed for the warre to goe wyth the king, and & seemeth good reason. For it maye bee that he & holdeth by suche seruice is sick in such wise that he may not go nor ride.

And also an Abbot or anye other man of religion, or a woman sole that holdeth by suche seruice, ought not in suche case to go in propre person. And sir William Herle that time chief Justice of the common place, saide in the saide plee that Escuage shall not bee graunted but where the king himselfe goeth in propre person. And so it abode in iudgement in the same plee if these xl. dayes shall be accounted from the day of the muster of the kyngs hoste made by the commons and by the kings commaundement. Or els from the day & the kinge fyrt entreteth into Scotland &c. therefore inquire of this matter.

¶ And after suche voyage into Scotlande

it is commonly sayde, that by the auctoritie of
parliament, the escuage shalbee set and put in
certaine, that is for to say, a certaine summe of
money how much every one that holdeth by a
whole fee of knightes service whiche was not
in his own proper person, nor none other for
hym with the king, shal paye vnto the Lorde
of whom he holdeth his lande by escuage. As,
put case that it was ordeyned by auctoritie of
parliament y^e every one y^e holdethe by a whole
fee by knight service which was not with the
king shall pay to his Lord. xl s. Then he that
holdethe by the halfe of a fee by knightes ser-
vice, shall pay vnto his Lorde but. xx. s. and so
who more, more: & who lesse, lesse. And some
tenauntes holde, y^e if escuage renne by aucto-
ritie of parliament to any summe of moneye,
y^e theye shall paye but the halfe of that summe
and some but the sowerth part of y^e summe. But
because the escuage that they shall paye is not
certaine, for y^e it is at no certain what the par-
liament wyll asseste the escuage, they hold by
knightes service. But otherwise it is of escu-
age certaine, of which shalbe spoken of in the
tenure of socage.

And yf a man speake generallye of Escu-
age, it shall bee vnderstande by the common
speache of Escuage not certayne, whiche ys
knightes service. And such Escuage draweth
vnto hym homage, and homage draweth vn-
to hym fealtie, for fealtie is incydent to eue-
rye manner of service, but to the tenure of
franke

Escuage.

franke almozgne as it shall bee sayd hereafter in tenure of franke almozgne. So as he that holdeth by escuage, holdeth by homage, sealtpe and escuage.

And it is to bee vnderstande, that when escuage is so sessed by auctorite of parliament, euery Lord of whom the lande is holden by escuage, shall haue the escuage so sessed by the parliament, because it is vnderstande by the lawe that at the beginning, suche tenementes were geuen by the lordes to holde by such seruices to defende their Lordes as well as the kyng, and to set in quiet and rest their Lordes and the kyng of Scottes aforesayde. And for that such tenementes came first of the Lordes, it is reason that they haue the escuage of their tenementes.

And the lordes in such case may distreine for the escuage so assessed, or they maye haue the kings writs directed vnto the Shyriues of the shires to leuie such escuage for them as it appeareth by the Register. fol. 88.

But of suche tenauntes that holde of the king by escuage which were not with the king in Scotland, the king him selfe shall haue the escuage.

Item in suche case aforesayde, where the king maketh a voyage royall into Scotlande, and the escuage is assessed by parliament, if the Lord distreyn his tenaunt that holdeth of him by seruice of a whole knights fee, for the escuage so assessed &c. And the tenant plede the
and

Homage, fealtie, & escuage. 22

and will auerre that he was with the kyng in Scotland. &c. by xl. dayes, and the Lord will auerre the contrary, it is sayde that it shal be tried by the certification of the constable of the kings host, in writing vnder his scale whych shal be sent to the Iustices.

C Homage, fealtie, and escuage.

T Enure by homage, fealty, and escuage, is to holde by knightes seruice, and it draweth vnto him warde, mariage, & reliefe. For whē such a tenant dieth his heir male being within age of xxi. yere, the Lord shal haue y^e lande holden of him vntill the age of the heyre of xxi. yere, whych is called plaine or full age, for that suche an heir by the vnderstanding of the law, is not able to doe knightes seruice before the age of xxi. yere.

And also if suche an heir bee not married at the tyme of the death of hys auncester, then the Lord shal haue the warde and mariage of hym. But if suche a tenant dye hys heyre female beinge of the age of fourtene yere or more, then the Lord shal not haue the warde neyther of the lande nor of the bodye, for that a woman of suche age may haue an husbande able to doe knightes seruice. But if suche an heyre female bee within the age of fourtene yere and not married at the tyme of the death of hir auncester, then the Lord shal haue the warde

Homage, fealtie, & escuage.

Warde of the lande holden of hym tyll the age of suche an heyre female of xvi. yeare. For that it is giuen by the statute of Westmyster the fyrst Cap. 12. that by two yeare next folowing the sayde xiiij. yeare, the Lorde maye tender a conuenient mariage wythout disperagynge of such an heyre female. And if the Lorde do not tender hir suche mariage within the sayd two yeare, then she at the ende of the sayd two yeare may enter and put out the Lorde. But if suche an heyre female bee married within the age of xiiij. yeare in the lyfe of the auncester, and the auncester dye, shee beinge wythin the age of xiiij. yeare, the Lorde shall haue but the warde of the lande till an ende of xiiij. yeare of age of suche an heyre female. And then hir husbande and shee may enter into the lande and put out the Lorde, for this is out of the case of the statute. In so muche that the Lord cannot tender mariage to hir that is married &c. For before the said estatute of Westminster the firste such pssue female that was within age of xiiij. yeare at the tyme of the deathe of her auncester, and after that shee had accomplisshed the age of xiiij. yeare wythout any tender of mariage to hir by the Lorde, suche an heyre female then myghte enter into the lande and put out the Lorde as it appeareth by the rehersall & by the wordes of the same estatute. So that the sayd statute was made in suche case all for the auantage of the Lord as it seemeth. But yet that at all tymes is vnderstande by the wordes of the same

Homage, fealtie, & escuage. fo. 23

same estatute, that the Lord shall not haue the twoe yere after the xiiii. yere as it is afore sayde.!

¶ And note well that the full age of heire male and female after the common speache, is saide the age of xxi. And the age of discretion is saide the age of xiiii. yeaues, for a chylde at suche age whych is wedded wythin suche age to a woman may agree to the mariage or disagree.

¶ And if the wardeyne in chivalrye marye once his warde within the age of xiiii. yere, & after the age of xiiii. yeres he disagreeeth to the maryage. It is sayde by some folke that the chylde is not holden by the lawe to bee maryed another tyme by his wardeyne, for that the wardeyne had once the maryage of hym, and therefore hee was out of his ward as concerning the warde of his body. And when he had once the mariage of him and therefore was out of his warde he shal no more haue & maryage of him. In the same maner it is if the wardeyn marye him and the wyfe dye the chylde beyng wythin age of xiiii. yeres or xxi. yeaues. And that the chylde maye disagree to suche mariage when he come to thage of xiiii. yere it is proued by the woordes of the statut of Marton cap. 6. that sayeth thus. *De dominiis qui maritaauerint illos quos habent in custodia sua villanis & aliis sicut burgensis vbi disparagent, si tales homines fuerint infra 14 annos & talis etatis q̄ matrimonio consentire non*

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non possint, tunc si parentes illius conquerantur dominus ille amittat custodiam illam vsq; ad etatem heredis. Et omne commodum qd inde receptum fuerit conuertatur in comodum heredis infra etatem existentis secundum dispositionem parentum ppter deducum ei imp ositum. Si autem fuerit xiiii. annorum & ultra quia consentire poterit, & tali maritagio consenserit, nulla sequatur pena. And so it is proued by the same statute that no desperage shalbee but where that he that hath the ward marieth him within the age of xiiii. yere.

Also it hath beene a question howe these woordes should be vnderstand. Si parentes conquerantur &c. And it seemeth vnto some that considering the statute of Magna carta Cap. 6. that willeth that heredes maritentur absq; desperagacione &c. vpo whyche this said statut of Marton vpon this point is grounded as it seemeth, and in so muche that it was neuer seene that anye action was brought vpo the action of Marton for suche desperagynge againste the warden, and if anye action maye be taken vpon such matter, it shalbee taken by common presumption before thys tyme, or at some time to bee put in vze, that these woordes shalbee vnderstande in such manner. Si parentes conquerantur. a. Si parentes inter se lamentantur, whi. h is as muche to saye that if the cosins of suche a childe haue cause to make lamentacion and complaynt among them for the shame doone to their cosin so dysperaged which

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Which is in a maner a shame to them all, thā may the next cosin to whom the heritage may not discend, enter and put out the wardeyn in chivalrye. And if he will not, another cosin of the chyldes may do it, and he to take the issues and profits vnto the vse of the chyld, and of that yelde the chyld accompt when hee cometh vnto his full age. Or els the chyld when age may enter him selfe & put out the warden &c. sed quere de hoc.

Also there is many other dyspers dysperagyns, whiche be not specified in the same estatute. As if the heire that is in ward be married vnto one that hath but one foote, or one hande, or is deformed or lame, or haupnge an horrible disease, or els a greate and continuall infirmitie, or if the heire male bee maryed to a woman passed chyld bearing. And manye other causes of disparagynge there bee, but inquire for them, for it is good matter to learne. And of heires males that bee within age of xxi. yere, after the death of their auncesters vnmarried. In suche case the lord shall haue the mariage of suche an heire, and haue space and tyme to tender to him conuenable maryage without disparagynge within the same tyme of xxi. yere.

And it is to wytte, that the heyre in suche case maye choose yf hee wyl be maryed or noe. But yf the Lord whych is called wardeyne in Chivalrye, tender a conuenable maryage to suche an heyre wythin
in

Homage, fealtie, & escuage.

in the age of xxi. yere wythout disperagynge, and the heire refuse, and marve not hym selfe wythin the same age: Then the sayd wardeyn shall haue the value of the marpage of suche an heire. But if such an heire male marry hym selfe wythin the age of xxi. yere, agaynste the will of the wardeine in chivalrye: Then shall the wardeyne haue double the value of that mariage by the force of the estatut of Hertofore sayde, as in the same statute is moze fully comprised.

¶ Also dyuers tenants hold of their lordes by knyghtes service, and yet they holde not by escuage, nor pay no escuage as they that holde their landes by castle warde, that is to say, to keepe a towre of a castle, or a gayle or some other place by reasonable warning when their lordes heare tell that enemies will come, or be come into England. And in many other cases a man may holde by knyghtes service, and yet he holdeth not by escuage, nor payeth no escuage, as shalbe saide in the tenure of Graunde sericantie. But in all cases where a man holdeth by knyghts seruyces, such seruyces draweth to the Lorde warde and mariage. And if a tenaunt that holdeth of his lord by seruyce of an whole knyghts fee, dye, his heire being at full age of xxi. yere, his heire shall pay vnto his lord 100. s. for a reliefe, & he that holdeth by the halfe fee, shall pay 50. s.

¶ Also if a man holde his lande of hyr lord by the service of two knyghtes fees, then the heire

Homage fealtie & escuage. 25

heire at ful age at the tyme of the death of hys
auncester, shall pay to his lord tenne pound for
reliefe.

Also if there bee graundfather, mother, &
sonne, and the mother dyeth lyving the father
of the sonne, and after the graundfather which
held his land by knyghtes seruice dyeth seised,
and the land descendeth to the sonne of y^e mo-
ther, as heire to the graundfather whiche is
withyn age. In such case y^e lord shal haue the
ward of the land, but not the ward of the heir.
For that none shalbee in ward of his body ly-
ving his father, because the father during hys
lyfe, shall haue the mariage of his heire appa-
rant, & not the Lord. Otherwise it is if the fa-
ther bee dead liuing the mother, where y^e land
holden in chivalrie, descendeth to the sonne on
the fathers syde &c.

Also if a man bee seised of land whiche is
holden by knyghtes seruice, and maketh feoffe-
ment in fee to his vsc, and died seised to the vsc
of his heire within age, and no will by hym de-
clared, the Lord shall haue a wytte of righte,
of the body and the land. Likewise if y^e tenant
had dyed seised of the demesne. And if the heire
bee of full age at the death of his auncester. In
such a case hee shall pay relief. Likewise if hee
had been seised of the demesne, and that is by
the statute of an. 4. V. 7. cap. 7.

Also there is a wardē in right in chivalry,
& warden in deede in chivalrie. wardē in right
in chivalry, is where the Lord because of hys
D. i. lordship

Socage.

lordship is seised of the ward of the land, & the
heire vt supra. Wardein in deede in chivalry
where the Lord in suche case after his seising
graunteth by deede or without deede the ward
of the lande or of the heire, or of bothe, to ano-
ther man by force of which graunt, the graun-
tee is in possession, than is the graunter called
wardein in deede &c.

Tenure in socage. Capi. 5.

Tenure in socage, is where the tenaunt hold-
eth of hys Lord hys tenauncye by certein
service for all maner of service, so that the ser-
vice be not knightes service. As wher a man
holdeth his lande of hys Lord by fealtie and
certeine rente for all maner of service, or else
where a man holdeth hys lande by homage
fealtie, and certeine rente, for all maner of ser-
uices, for homage by himself maketh not knight-
es service.

Also a man may hold of his lord only by feal-
tie, and suche tenure is tenure in socage, for
euery tenure that is not tenure in chivalry, is
tenure in socage. And it is saide that the cause
wherefore suche tenure is sayde, and hath the
name of tenure in socage, is thus. Quia hoc
socagium id est, quod fuit socc. Et hec soca socc id
est quod caruca s. one sok or one plough land. And
in old time before y^e limitacio of time in minde,
great

the greate parte of the tenauntes that helde their
 Lozdes by socage ought to come with theyre
 plowes euery of the saide tenants by certeine
 dayes in the yere, to eyre and sow the lozdes
 landes of his own graines. But for that suche
 woorkes were done for the lyeuode and sus-
 tenaunce of their lozdes, they were acquitted
 against their lozde of all maner of seruices.

And for this that suche seruice was doone &
 their plowes, suche tenure was called tenure
 in socage. And after that suche seruyce were
 chaunged in dyuers other manner seruyce by
 consent of the tenauntes, and by the desyre of
 their lozdes, that is to saye into a yerely rent
 &c. But yet the name of Socage abydeth, and
 in dyuers places tenauntes yet doe suche ser-
 uyce with their plowes vnto their Lozdes, so
 that all manner of seruyces that bee not tenu-
 res by knyghtes seruyce bee called tenures in
 socage.

Also if a man holde of his lozde by escuage
 certaine. That is to say in suche fourme, that
 when escuage runneth and is assessed by the
 Parlyament to a moze summe oz to a litle summe
 for that the tenaunt shall paye to the Lozde but
 halfe a marke for escuage, and neyther moze
 nor lesse, to how great summe oz litle summe
 the escuage runneth, in this case, because the
 escuage is in certein before that anye escuage
 is assessed &c. Suche tenure is tenure in So-
 cage & not knyghtes seruice. But where the
 D.ii. summe

Socage.

some that the tenant shal pay for escuage, is not certeine, that is to saye, where it maye be that the somme that the ternaunt shal paye for escuage may be at one tyme moze and another lesse, after that it is asselled &c. thā such tenure is tenure by knightes seruice.

Also if a man holde his land for to pay certeine rent to his lord for castle warde, such tenure is tenure in socage. But where the ternautes self ought by him or by anye other to make castle ward, such is tenure by knightes seruice.

Also in all cases where the tenant holdeth of his lord to pay to him anye certeine rent, rent is called rent seruice.

Also in such tenures in socage if the tenant haue issue and dye, his issue beinge wpythin the age of 14. yerres, then the next frend of the tenant to whom the heritage maye not discende shall haue the warde of the lande, and of the heire vnto the age of the heire of 14. yerres, & such wardcyne is called wardeine in socage. If land discende to the heire by the fathers syde then the mother, or some other nygh cosyn of the mother syde shall haue the ward. And if lande discend to the heire by the mothers syde then the father or the next frend of the fathers syde shall haue the warde of such lands or tenementes. And when the heire commeth to the age of 14. yerres complete, he may enter & put out his wardeine in socage, and occupie the land him selfe if he will. And such wardeine is socage.

socage shall take no issues or profits of suche lands or tenements to his owne vse, but only to the vse and profyte of the heire, and of that shall yelde accompt when it please the heire after y the heire hath accomplished the age of fogeteene yeares. But suche a wardeyn vppon suche accompt shall haue allowaunce of al his reasonable costes and expences of all thinges. And if such a wardeyn mary the heire within age of. xiiij. yere, he shal make accompte to the heire or to his executores of the value of the mariage, though he tooke nothyng for the value of the mariage, for that it shall bee reded his owne folp, that he would mary him without taking the value of the mariage without hee mary him to such a mariage that is worth in value as much as the mariage of the heire &c. Also if anpe other man that is not a nyghe frende &c. occuppe the landes and tenementes of the heire as wardeins in socage hec shall bee compelled to yeld accompt vnto the heire, as well as his nexte frende. For it is noe plee for him in a writte of accompte to saye that he is not his nigh frend &c. But hee shal aunswere whether he occupieth the lands or tenementes as wardeyn in socage or not. But enquire if after that the heire haue accomplished the age of xiiij. yere, and the wardeyn in socage continually occupieth the land til the heire comethe to full age of xxi. yeares. If the heire at hys full age shall haue an action of accompte agaynst the wardeyn of the time that hee hath occupi-

Socage.

ed after the said foeteene yeres, as against his wardein in socage, or against him as against his baillife.

Also if wardeyne in chivalrye make his executours, and dye, the heire beeinge within age &c. The executours shall haue the warde, duryng the nonage. But yf the wardein in Socage make executours and dye, the heire beeinge within the age of fowerteene yeres his executours shall not haue the warde, but an other nyghe frende to whom the herptage maye not discende, shall haue the ward. And the cause of diuersities is, for that the wardein in chivalrye hath the warde to hys propre vse, and the wardein in Socage hath not the warde to his owne vse, but to the vse of the heire. And in suche case, where the wardein in Socage dyeth before any such accompt made by him, the heire is of that withoute remedy, for that no writ of accompt lyeth against the executours but onely for the king.

Also the lord of whom the lande is holden in Socage after the deathe of hys tenaunt, shall haue releyse in suche fourme. If the tenaunt holde by fealtie, and certayne rents to paye yearlye &c. If the termes of payement bee to paye by twoo termes of the yere, or by fower tearmes of the yere, the Lord shall haue of the heire of hys tenaunte, as muche as the rent amounteth that hee shoulde paye by yere. And if the tenaunt helde of the

Lord

Lord by fealtie, and x. Shillinges of rent, payable at certeine tearmes of the yere, then the heire shall pay to the lord tennie Shillinges for reliefe aboue these tenne Shillings that he shall pay for the rent. Looke moze in the Statute of an xix. Henry the seuenth. Cap. xv.

And in suche case after the deathe of the tenant suche reliefe is due to the lord incontinent of what age so euer the heire bee, for that suche a Lord maye not haue the swarde of the body nor the lande of the heire. And the Lord in suche case ought not to abyde the paymente of his reliefe after the tearmes and dayes of payment of the rent, but hee ought to haue hys reliefe incontinent. And therefore hee maye incontinent distrayne after the deathe of hys tenant for the reliefe. In the same maner it is, where a tenant holdeth of his Lord by fealtie, and by a pound of cummyng, or a pounce of pepper by the yere, & the tenant dye, the lord shall haue for his relief a pounce of cummin or a pound of pepper.

In the same maner it is, where the tenant holdeth to pay by yere a certein number of capons or hennes, or a paire of gloves, or certein bushels of wheat, & suche other maner thinge. But in some case the Lord ought to abyde to distrayne for his relief till a certein time.

As if the tenant holde of his Lord by a rose or by a bushell of roses to paye at the feast of S. John Baptist. If suche a tenant dye in winter, then the Lord maye not distrayne for

Socage.

his reliefe &c. vntill the time that the roses by the course of the yere may haue theire growynges &c. Et sic de similibus. Also yf anye pervaunture will aske why a man may not holde of his lord by fealty onely for all maner of seruices, in so much when the ternaunt shal make his fealty, hee shal swere to his lord that hee shal doo all seruices due, and when hee hath made fealty in suche case, there is none other seruice due. To this it may bee saide, y where the ternaunt holdeth his land of hys lord, it becometh that hee ought to doe to his lord, some maner of seruice, for yf the ternaunt nor his heires oughte to doo no maner of scrvice to hys lord nor to his heire, then by long tyme continued it shoulde bee oute of remembrance of whome the land was holden, of the Lord or of his heire or not, and then more often and more sooner will men say that the lande is not holden of the lord nor of his heires then otherwise, and vpon this the lord shall lose hys charge of the land, or per case other forfeiture or profit that hee mighte haue of the land. So yf it is reason that the lord & his heires haue some seruice don vnto him for a prooffe and a witness that the lande is holden in frank almoigne as shalbee said in frank almoigne, and because that the lord will not at the beginning of the tenure haue anye other seruices but fealty, it is reason that a man may holde of hys lord only by fealty, and when hee hath made his fealty, hee hath doone all his seruice.

Also

¶ Also if a man let to an other for terme of
 yse certeine landes or teneimentes wythoute
 speaking of any thing to yeld to the lessours,
 yet hee shall doo to the lessour fealtie, for that
 hee holdeth of him. Also if a lease bee made to
 a man for terme of yeres, it is said y lessee shal
 doo to y lessour fealtie, for y he holdeth of him.
 And this is proued well by the woordes in a
 writte of waste when the lessour hath caused
 to bringe a writte of waste againste him the
 whiche writte shall saye that the lessee holdeth
 the teneiments of the lessour for termin of yeres.
 So the writte proueth a nature betwen the &c.
 but hee that is tenant at will after the course
 of the common law, shall not make fealtie, be-
 cause hee hath no maner of a sure estate. But
 otherwise it is of tenaunt after the custome of
 the maner, because that hee is bound to do feal-
 tie to his lord for two causes, one is because of
 custome, the other is because that he take hys
 estate in suche fourme to doo fealtie.

¶ Frankalmoigne. Ca. 6.

¶ Tenaunte in franke almoigne, is where an
 abbot, or prior, or an other mā of religion,
 or of holy church, holdeth of his lord in Frank
 almoigne, that is to say in latine. In liberam
 elemosinam, that is to say, in fre almes.
 And suche tenure beganne firste in olde tyme
 when a manne in olde tyme was seyled of lan-
 des or teneimentes in hys demesne, as of fee, &
 of the

Franke almoigne.

of the same lande enfeofed an abbot and his
couent, or priour and his couent, to haue and
to holde of them and their successours in p[er]petuall
& perpetuall almes, or in franke almoigne, or
by such woordes to holde of h[is] grantour, or of
lesour and his heires in free almes. In such
case the tenementes were holden in frank al-
moigne, and in the same maner it is where the
landes or tenementes were graunted in old
tyme to a Deane and Chapter & to their suc-
cessours, or to a parson of a church & to his suc-
cessours, or to any other man of holy church
to his successours in free almes if hee had cap-
citie to take suche grantes or feoffements
& such as hold in free almes, be bound of right
afore God to doo orisons, praylers & masses,
other diuine seruices for the soules of h[is] gran-
tours or feoffoures, or for the soules of their
heires which bee dead, and for the prosperitie
good lyfe of them that bee a lyue.

And for this, they doo at no tyme no man-
ner of fealty vnto their lordes, for that such di-
uine seruice is better for them before god, than a-
ny dooinge of fealtie, and also these woordes
free almes. or franke almoigne, exclude the
lord to haue anye worldly or temporall serui-
ce, but onely to haue diuine and spiritual serui-
ce to bee doone for hym &c. And yf suche that
holde their tenements in free almes, or franke
almoygne will not, or sayle to doo suche di-
uine seruice as it is sayde, the Lorde maye not
distreine them for the seruices vndone &c. be-
cause

Franke almoigne. Fo.30

cause it is not set in certain, what seruice they ought to do: but $\frac{1}{2}$ Lorde may of $\frac{1}{2}$ complaint to their Ordinary, praying him that hee will set punishiuent & correction of that. And also to provide and see that suche negligence be no moze done, and the ordinary of right ought to doo that &c.

¶ But wher an Abbot or a priour holdeth of his lorde by certeine diuine seruice in certeine to bee doone, as for to sing a masse euerye trayde in the weeke for the soules &c. or euerye yere at such a daie to singe Placebo & Dirige &c. or to finde a chaplein to sing masse &c. or to distribut in almes to an hundred poore menne an hundred pence at suche a day; in such case if suche diuine seruice be not done the lord maye distreine &c. for that this diuine seruice is in certeine by their tenure what the abbot or the priour ought to doo. And in suche case the lord shall haue the fealtie &c. as it seemeth.

And suche tenure is not saide tenure in free almes, but it is saide tenure by diuine seruice, for in tenure in free almes, or franke almoigne, noe mencion is made of anye maner certeine seruice, for none maye holde in free almes or franke almoigne if there bee expessed anye maner certeine seruice that hee ought to doo.

¶ And if it bee demaunded if the tenant in frankmarriage shall doe fealtie to the donoure or to his heires beefore the fowerth degree be passed &c. It seemeth that yea, for he is not like

Frank almoigne.

spke as to thys intent to a tenant in free almes oz franke almoigne for that the tenant in free almes shall doe, beecause of his tenure due to the lord as it is aforesayd, and that hee is charged to doo by the lawe of holys churche, and for that hee is excused and discharged of fealty. But tenant in franke marriage dooth not by his tenure such service.

And if hee doo not to his lord fealty, then hee doothe not to his lord any manner of service neither spirituall nor temporall, which should bee an inconuenience and againste reason that a man should haue estate of inheritance of another, and yet the lord shall haue no manner of service of him as it seemethe, and so it seemeth that hee shall doo fealty to his lord before the fourerth degree bee past &c. And when he hath done fealty, hee hath done all his service. And if an Abbot holde of his lord in free almes, the Abbot and his couent vnder their common seale alien the same land to a secular manne in fee simple, in this case the secular manne shall do fealty to the lord for that he may not hold of his lord in free almes, for if the lord ought not to haue of him fealty, then hee shall haue of him no manner of service whiche should bee an inconuenience where hee is Lord, and the tenements is holden of him.

¶ Also if a man grant at this day to an abbot oz to a priour, landes oz tenements in free almes oz franke almoigne, these woordes free almes oz franke almoigne bee voyde, for that it is

Franke almoigne. Fo. 31

It is ordeined by the statute whiche is called *Quia emptores terrarum* which statute was made Anno 18. regis E. primi. That no man may alpen or graunt landes and tenementes in fee simple to holde him selfe, so that if a mā seised of certein landes or tenementes whiche hee holdeth of his lord by knightes seruice & at this day hee graunteth the same lande to an Abbot &c. in free almes or franke almoigne, & Abbot shall holde immediatlye the same tenementes by knightes seruice of the Lord of his grauntour because of the same estatut so that no man may holde in free almes or in franke almoigne, but if it bee by title or prescription, or by force of a grant made to some of his predecessours before the same statute. But the King maye geue landes or tenementes in fee simple to hold in free almes or frank almoign or by other seruice for hee is out of the case of the statute, and note well that no man maye hold landes or tenementes in free almes, but of the grauntour or his heires, and that for & priuie of the giste, and therefore it is sayde that if there be lord mesne and tenaunt, & the tenaunt is an Abbot that holdeth of hys mesne in frank almoigne, if the mesne dye wpythoute heire then the menaltie shall come by escheate to the saide Lord above, & the abbot thā shall hold of him immediatly only by scaltie, & shall do him scaltie, for that he may not hold of him in frank almoigne &c.

And note well, where that suche a man of
rell-

Homage auncestrell.

religion holdeth his landes of his Lord in free almes &c his lord is bounde by the lawe to acquite him of euery maner of seruice that any lord aboue him wil demanda or aske of y same tenants. And if he acquite him not but suffer him to be distrained &c. then hee shall haue against his lord a wyte of mesne, and recouer his damages & costes of his suite.

Homage auncestrel. Cap. 7.

TENURE by homage auncestrell is, where a tenaunt holdeth his land of his lord by homage, and the same tenaunt and his auncester whose heire hee is hath holde the same lande of the saide lord and of his auncesters, whose heire the lord is from tyme out of mynds by homage, & haue done homage vnto him which is called homage auncestrel because of the continuance whiche hath been by tyme of prescription in the tenaunty, in y blood of the tenaunt & also in the lordship in the blood of the Lord, And in such seruice by homage auncestrel draweth to him warranty, if the Lord that is alyue hath receiued homage of such tenaunt, he ought to warrant his tenant when hee is impleded of the landes holden of him by homage auncestrell. And also suche seruyce by homage auncestrell draweth to him acquitaunce, that is to saye, the Lord ought to acquyte hys tenaunt against all other lordes aboue hym of euery maner of seruyce. And it is sayde that if such tenaunt bee impleded by a *Prescriptio quod reddat*

reddat &c. and hee voucheth his Lord to warrant, which cometh in by processe and asketh of the tenaunt what hee hath to bynd hym to warranty, and hee sheweth how hee and hys auncesters whose heire hee is, haue holden the lande of the vouchee and of his auncesters, whose heire hee is by homage fro tyme out of mynd, if the lord whiche is vouched receaueth none homage of the tenaunt, nor of any of his auncesters, the lord then if hee will, may disclaime in the lordship, and so put out hys tenaunt of his warranty. But if the lord whiche is vouched hath receiued homage of the tenat or of any of his auncesters, then maye hee not disclaime, but hee is bound by the law to warrant the tenaunt, and than if the tenaunt lease the land in default of the vouchee, hee shall recouer in value against the voucher of $\frac{1}{2}$ landes or tenements that the vouchee had at the time of the vouche or anye tyme after. And it is to wete that in euery case where the Lord may disclaime in his Lordship by the law in court of Recoꝛde, and of that will disclaime his seignoury is extinct, and the tenaunte shall holde of his Lord nexte aboue the Lord whiche so disclaimeeth. But if an Abbot or priour be vouched by force of homage auncestrell &c. though hee hath neuer taken homage &c. yet hee cannot disclaime in thys case nor in none other case, for they cannot deueste $\frac{1}{2}$ thing in fee which hath been vested in their house. Dalche. x. c. quart.

¶ Also

Homage auncestrell.

Also yf a man that holdeth his land by homage auncestrell alpeneth his lande to an other in fee, the alience shal doo homage to hys lord. But hee holdeth not of his Lord by homage auncestrell for that the tenauncy was not continued in the hold of the auncestours of the alien, nor the alien shal neuer haue the warrantry of his lande of his Lord, for that the continuance of the tenauncy in the tenaunt and in his blood by the alienacion is discontinued, so see that the tenaunte that holdethe his lande by homage auncestrell of the Lord, and such a tenaunt alieneth in fee, though that hee take estate of the alpen agaynz in fee, hee holdethe the lande by homage, but not by homage auncestrell.

Also it is saide, that if a man hold his lande of his lord by homage and fealtie, and he hath made homage and fealtie vnto his lord, & the lord hath issue a sonne, and dyeth, & the lordship descēdeth to his sonne, In this case the tenaunte whiche did homage to the father, shal not doo homage to the sonne, for that when the tenaunt hath made once homage to hys lord, hee is excused for terme of hys lyfe to make homage to anye other heire of the lord. But yet hee shal doo fealtie to the sonne and heyre of hys Lord thoughe that hee made fealtie to his father.

Also if the lord after the homage to hym made by his tenaunt graunt the seruice of hys tenaunt by decde vnto an other in fee, and the tenaunt

Homage auncestrel. fol. 33.

tenant attorne the &c. the ternaunt shall not bee
compelled to do homage but he shall do fealtie
though hee did fealtie befoze the grauntoure,
or fealtie is incident to euery attornemēt whē
the lordship is graunted. But if a man be sey-
ed of a manour, and another man holdeth his
land of him as of the manour aforesaid by ho-
mage, & which hath done homage to his lord
whiche is seised of the manour if after that a
trainger bring a Wrecipe quod reddat against
the lord of the manour and recouereth the ma-
nour against him and sueth execution &c. in
his case the ternaunt shall once againe doo ho-
mage to him that recouereth the manour for
that the state of him whiche receyued homage
before is defeated by the recovery. And it shal
not lye in the mouthe of the ternaunt to falsifie
or defete the recovery which was against his
lord, & so see the diuersitie in this case where
a man cometh to his lordship by recovery, and
where he cometh by discent or graunt of the
signory.

And if a man tenant which ought by his te-
nure to doe homage to his Lord come to his
lord and say to him, sir I owe to do vnto you
homage for the tenements that I hold of you
and I am redy to do you homage for the same
tenements for the which I pray you that yee
will now receiue it and if the lord then refuse
to receiue it, then after suche refuse the Lord
may not distraine the ternaunt for the homage
before that the Lord require the ternaunt to do
homage

Graund sericantie.

homage, and the tenant refuse to do it.

¶ Also, a man may hold his land by homage auncestrel & by escuage or by other knights service, as wel as he might hold his land by homage auncestrel in Socage.

¶ Graund sergeauntie. cap. 8.

TENURE by graunde sergeauntie is, when a man holdeth his lands or tenements of a soueraigne lord the king, by the service which he ought to do in his owne propre person, or to beare the kyngs banner or his speare, or to lead his hoste, or to be his marshal, or to be his sweord before him at his coronacion, or to be his sewer at his coronacion, or his kerna or butler, or to be one of his chamberlains, or of his rescit of his Eschequer, or to doe such services as and the cause wherefore such service is called graund sergeauntie, is for that it is moze honorable, & woorthipful, & digne, than the service of the tenure by escuage, for he which holdeth by escuage, is not limited by his tenure to do any moze especial service than any other holdeth by escuage ought to do. But he which holdeth by Graund sergeauntie, ought to do especial service to the king. But he which holdeth by escuage ought not to do.

¶ Also if the tenant which holdeth by escuage dye, his heire beeing at full age, if he be helde by a knights fee, the heire shall pay but an C. s. for his reliefe, as it is ordeined by statute of Magna charta cap. 2 but he which

Graund Segeantie. fo.34.

eth of the kynge by graunde sergeauntie and
 eth his heire being of ful age, shall paye vn-
 o the kynge for his reliefe the value of hys
 andes oz tenements by yeare, beside the char-
 ges and repzises whiche he holdeth of y king
 y graund sergeantie: And it is to wete that
 ergeauntie in latin is seruicium, and of mag-
 a seriantia is magnum seruicium, y is to say
 great seruice.

Also those whiche hold by escheage ought
 o doe their seruice out of the realme, but they
 hat holde by graund sergeauntie for the most
 arte oughte to doe their seruice within the
 realme.

Also it is said y in y Marches of Scot-
 ande some holde of the kinge by cornage y is
 o say to blowe an hozne for to warne the men
 of the countrey &c. when they here y y Scots
 other enemies wil come oz enter into Eng-
 and &c. whiche seruice is graund sergeauntie
 c. but if anie tenant holde of anie other lord
 hen of the king by suchz seruice of cornage, y
 is not graund sergeauntie, but it is knightes
 rvice, & draweth to him ward mariage, & re-
 lease, for none may hold by graund sergeauntie
 out of the king onely.

Also a man may see in the. xi. yere of Henry
 the sowerth that Tokata then beeing chiefe
 Barron of theschequer came into the common
 lace brynging with him a coppie of a recozde
 in these woordes. Talis tenet tantam terrā de
 domino rege per seriantiam ad inueniendum

E.ij.

bnium

Petite serieantie.

Unum hominem ad guerrā infra quatuor mē-
tia &c. That is to say, suche a manne holdeth
so much land of our soueraigne Lord the king
by sergeantie to warre within the forwer se-
& hee demaunded whether it was graund ser-
geauntie or petite sergeantie, and Hanks the
saide that it was graund sergeauntie, soz
it was seruice to be done by the body of a man
and if that he maye not finde a man to doo
seruice for him hee must doo it hym selfe.
Whom the other iustices assented Cokeyn the
sayde, the ternaunt in this case shall pay re-
to the value of the lande by yere, to the whiche
was none answer, and note that al they the
holde of the king by graund sergeauntie, hold
of the king by knightes seruice, and the by
of that shal haue ward mariage & reliefe but
king shal not haue of the escuage if they hold
not by escuage.

¶ Petite sergeaunty. cap. 9.

Ternaunt by petite sergeauntye is where
manne holdeth his lande of our soueraigne
Lorde the kinge to yelde vnto him yearly
Bowe, & sweord or a dagger, or a knife, or
spere, or a paire of gloues of Mayle, or a paire
of spurres gilt, or an arrow, or diuers arrows
or to yelde such other small thyngs touch-
the warre and suche scrupce is but forage
effeate for that that the ternaunt by hys ternaunty
ought not to goe nor to doe anie thinge in his
owne

none proper person touching the warre. But
to yelde and paye perely certayne things vnto
the king as a man oughte to paye a rente. And
note that no man holde lande by graunde ser-
geaunrie nor by petite sergeauntie but of the
kyng.

Burgage. Cap.10.

TEnure in Burgage is where an aunciente
Borough is, of the which the kyng is Lord
and they that haue tenementes within the bo-
rough holde of the king theyr tenementes that
euery tenaunt for his tenement ought to paye
to the kyng a certayne rente by yeare &c. And
suche tenure is but tenure in Borage, and the
same maner is where an other Lord spiritual
or tempozall is Lord of suche a borough, and
the tenauntes of the tenementes in such a bo-
rough hold of theyr Lord to pay eche of them
yearely an annuell rent, and it is called tenure
in Burgage, for that the tenemets within the
borough be holden of the Lord of the borough
for certayne rent &c. And it is to wite that the
aunciente townes called Boroughes bee the
mooste auncient and eldeste Townes that bee
within England, for the townes that now be
cities or counties, in olde time were boroughs
and called boroughes, for of such olde townes
called boroughes came these Burgeses of the
Parliamēt to the Parliament when the king
first summoned his Parliament.

.C.ij.

¶ Also

Burgage.

¶ Also for the greater parte suche boroughe haue dyuers customes and vsages whych be not had in other Townes, for some boroughe hath suche custome that if a man haue issue many sonnes and dieth, the yongest sonne shal inherite all the tenementes which were his fathers within the same boroughe as heyre vnto his father by force of the custome, the which is called boroughe Englishe.

¶ Also in some boroughes by the custome the wyfe shall haue for hir dower al the tenementes which were hir husbandes.

¶ Also in some boroughe by the custome a man may deuise by his testament his lands and tenementes whych he hath in fee simple within the same boroughe at the time of his death & by force of such deuise he to whom such deuise is made after the death of the deuysour, may enter in the tenementes to hym deuysed to haue and to holde to him after the fourme and effect of the deuise without any livery of seisin therof to be made to him.

¶ Also though a man maye not graunte nor gyue hys tenementes to hys wyfe during the coverture, for that that his wyfe and he be but one person in the lawe, yet by such custome he may deuise by his testament hys tenementes to his wyfe to haue and to holde to hyr in fee simple or in fee taylor, or for terme of lyfe or years, for y such deuise taketh none effect but after the death of the deuysour. And if a man diuers times make diuers testaments and di-

uer

ners deuises &c. yet the last deuise & will made by him, shal stand and abyde.

¶ Also by such custome a man may deuise by his testament that his executours may alpyene and sell the tenementes that he hath in fee simple for a certeine summe to distribute for the soule, in this case though the deuysour dye seised of the tenementes, and the tenementes descend vnto his heire, yet the executours after the death of the testatour may sell the tenementes so deuised and put out the heire & therof make a feoffment, alienation, and estate by deede or without deede, to them to whome the sale ys made vnto.

¶ And so maye ye see heere a case where a man may make a lawfull estate, and yet hee hath nought in the tenementes at the tyme of the estate made & the cause is for that, that the custome and vsage is suche. *Quia consuetudo ex certa causa rationabili vsitata priuat communem legem.* For a custome vled by a certain reasonable cause, barreth the comon law. And note well, no custome is to bee allowed, but such custome as hath ben vled by tittle of prescription, that is to say, from time whercof is no mind. But diuers oppinons haue ben of time out of mynd & of tittle of pscriptio which is all one in y law, for some men haue sayde the tyme of minde should be sayde for tyme of limitation in a write of right, that is to saye, fro the tyme of kinge Richarde the fyrste after the Conquest, as is gyuen by the Statute of

Burgage.

westminster & first, for that a writ of right is
the moste highest writ in his nature that may
be. And in such a writ a man may recover his
ryght of the possession of his auncesters of the
moste auncient time that any man may by any
writ by the law. And in so much that it is ge-
uen by the sayde estatute, that in such a writ
none shalbe heard to aske of the seyson of his
auncesters of moze longer time then of y^e time
of kyng Rycharde aforesayd, therefore this is
proued that continuance of possession or other
customes and vsages vsed after the same time
is tittle of prescriptiō, and this is certein. And
other haue sayde that well and truth it is that
seisin and continuance after the limitacion ec.
is a tittle of prescription as is aforesaid and by
the cause aforesaid. But they haue sayde that
there is also an other tittle of prescription that
was in the common law befoze any estatut of
limitation of writs ec. and that it was where
a custome or vsage or other thing had bene vs-
ed for time wherof minde of man runneth not
to the contrary, and they haue saide & this is
proued by the pleding where a man wil plede
a tittle of prescription of custome ec. he shal say
that suche custome hath bene vsed from tyme
whereof the memozy of men runneth not to
contrary, that is as much to say, when suche a
matter is pleded that no man then alyue hath
hearde one prooze to the contrary, nor hath no
knowledge to the contrary, and in so muche
such tittle of prescription was at the common
law

lawe and not put out by any estatute. Ergo it abideth as it was at the common law, and the sooner in so much that the saide limitation of a writte of right &c. is of so long tyme passed.

Ides quere de hoc, & manye other customes and vsages haue such auncient bozoughes.

Also euery bozough is a towne, but not to the contrary, moze shalbe saied of customes in the tenure of villenage.

Villenage. Cap. ii.

T Enure in villenage is mozte pperly when a villayn holdeth of his Lord to whome he is villaine certeine landes and tenementes after the custome and maner oz elles at the wyll of hys Lord and to do his byllayne seruyce, as to beare, bzing, and carie out the dong and spith of the lord vnto the land of his lord there to lay it, cast it, and sprede it abzode vppon the land, and to do such other maner of seruice and some free tenauntes hold their tenementes after the custome of certeine manoures by suche seruice, and their tenure is called tenure in villeynage, & yet they be no villaines, for no land holden by villenage oz villeine landes, oz anye custome rylinge of the laude shal neuer make free mā villein. But a villaine may make free lād to be villein land vnto his lord, as if a villayn purchase lād in fee simple oz in fee tayle, the Lord of the villaine may enter into & land & put out the villain & his heires for euer, and after

Villenage.

after the lord if he will he may let the same land to the villein to holde in villenage.

Also if a feoffment be made to a certein person or persons in fee to the vse of a villaine, or if a villain or anye other persons bee enfeofed to the vse of a villaine, what estate so euer the villain hath in the vse, in fee taile, for terme of lyfe or yerres, the lord of the villein maye enter in all those landes and tenements, like as if the villaine had beene alone seised of the demesne. And that is by the statute of Anno 19. H. 7. But if a free man will take any lands or tenementes of his lord by such villain service, that is to saye, to paye a fine to his lord for his marpage, or for y^e mariage of his sonne or his daughter, then shal he paye suche a fine for the marpage &c. for that it is the follewe of suche a free man to take in such fourme landes or tenementes to holde of his Lord by such bondage, yet that makech not the free man a villayne.

Also, every villayn, eyther hee is villaine by prescription, that is to say, he and hys ancestors haue bene villaines time out of mynde, or he is villain by his own confession in court of recorde. But if a free man haue dyuers issues, and after confesseth him self to be villaine to another in court of recorde, yet his issues which he hath before the confession be free, but the issue which he shall haue after the confession &c. shalbe villaines.

Also if a villayn purchaseth landes & alvengeth

meth the same lands to another before his lord enter, then the lord may not enter, for it shalbe iudged his owne foly that he entred not when the lande was in his villayns handes. And so it is of his other goodes, for if the villayne bye & sell, or giue goodes to another before that the lord leaseeth the goodes, the Lord may not lease the, but if the lord before any such sale or gift commeth within the house of the villayne where such goodes be, & there openly among his neighbours clayme the same goodes to be his, & so seple the parcel of the same in name of seple of all the goodes &c. This is sayde a good seple in the law. And the occupacion that the villayn hath after such clayme in his goodes, shal be taken in the lawe in the righte of the lord.

But yf the kyng haue any villaine that purchaseth landes & alieneth before that the king enter, yet the kyng may enter in the land in whose handes the lande commeth to. Or if the villayne bye or sell dyuers goodes before that the kyng seple the goodes, yet the kyng may seple them in whose handes that euery they be. *Quia nullū tempus occurrit regi*, for no time renneth against the kyng.

Also yf a manne lette lande to another for terme of lyfe, sayng the reuerfion to hym, and a villayne purchaseth of the lessoure the reuerfion, in this case it seemeth, that the lord of the villayne maye incontinent come to the lande and clayme the same reuerfion as Lord of the same Villayne, and by thys clayme, the

Villenage.

the reuerſion is incontinent in him, for in any other ſourme he may not come to the reuerſion for hee may not enter vpon the tenant for terme of yſe, and if he ought to auoyde tyll after the death of the tenant for terme of yſe, then hapely he might come to late, for peraduenture villayne will graunte or alyen it to an other in the life of the tenaunt for terme of yſe. In the ſame maner it is where a villeyne purchaſeth the aduowſon of a Church ful of an incumber that the Lorde of the Villeyne maye come to the ſayde Church and clayme the aduowſon. And by this clayme the aduowſon is in hym, for if hee abyde tyll after the deathe of the incumber and then preſente hys clarke to the ſayde Church: Then in the meane tyme the villain mighte allene the aduowſon &c. and ſo put out the Lorde from his preſentacion.

¶ Also there is a villain regardant and a villayne in groſſe. Villayne regardaunt is as a man be ſeiſed of a manour to whiche a villayne is regardant, and hee that is ſeiſed of the ſayde manour, or they whole eſtate hee hath in the ſame manour haue been ſeiſed of the ſayde villain and of his aunceſters as villains regardaunt to the manour from tyme out of minde. And villayn in groſſe is where a man is ſeiſed of a manour to the whiche a villayne is regardaunt, hee graunteth the ſame villayne by hys deede vnto another, the he is villayn in groſſe and not regardaunt.

¶ Also yf a manne and hys aunceſters whole

Whose heire hee is hath been seised of a villayne and of hys auncestours as byllaine in grosse tyme oute of mynde suche beene byllaynes in grosse. And note well that of such thinges whiche maye not bee graunted nor aspyened withoute deede or syne a manne that will haue suche thinges by prescription maye not otherwise prescribe but in hym and hys auncesters whose heire hee is and not by these woordes in him and in those whose estate hee hath for that þ hee may not haue theire estate without deede or wryting the which behoueth to be shewed to the court if hee will haue anie aduantage of this & because that the graunt and the alienacion of a villaine lyeth not without deede or other wryting. A man maye not prescribe in a villeine in grosse without shewing of wryting but in him self that claimeth the villaine and in his auncesters whose heire hee is. But of those thinges whiche be regardaunt or appendaunt to a manour or to other landes or tenementes, a manne may prescribe that hee and they whose estate hee hath were seised of the manour or of such landes or tenementes as regardauntes or appendauntes to the manour or to such landes and tenementes &c. from tyme out of mynde, and the cause is for thys that suche a manour landes and tenementes may passe by alienacion without deede &c. And it is to witte that nothinge is named regardaunt to a manour but a byllepne. But certayne other thynges as auowsons and
commune

Villenage.

commune of pasture &c. be named appendages to the manour or to other lands and tenements.

¶ Also if a man in court of recorde knowe ledge him selfe to bee villeine that neuer was villeyne befoze, suche one is villeine in grosse.

¶ Also a man that is villeine is called byleine, and a woman that is villeine is called niese, and a man that is outlawed is called an outlaw, and a woman that is outlawed is called a wayue.

¶ Also if a villeine take a free woman to wife the issue betwene them shalbe villeines. But if a niese take a free man to husband, theire issue shalbe free. And that is contrary to y^e law civile, for there he sayeth that partus sequitur ventrem.

¶ Also no bastarde maye bee villeine, but if he wil knowledge him selfe to bee a villeine in court of recorde, for he is in the law quasi nullius filius as the sonne of no man, for that he may be inheritour to no man.

¶ Also euery villein is able and free to sue in maner of actions against euery person except againste his Lorde to whom hee is villeine, and yet in certayne thynges hee maye haue againste his Lorde an action of appelle for the deathe of his father or of his other auncesters whose heire hee is, also a niese which is rauished by her Lorde may haue appele of rape against him.

¶ Also

Also, if a villeine bee made executour to another, and the lord of the villeine was indebted to the testatour in a certaine summe of money the which is not payde, in this case the villeine as executour to y testatour shall haue an actiō of det against his lord, because he shal not recouer the det to his propre vse, but to y vse of the testatour.

Also, the lord maye not take oute of the possession of suche a villeine that is executour of the deads goods, and if hee doo, the villeine as executour shall haue an action of Trespas againste his lord for the same goods so taken, and recouer dammages to the vse of the testatour. But in all these cases it bechooueth the lord which is defendant in suche actions to make protestacion that the pleintife is his villein, or els the villein shalbe franchised though the matter bee found for the lord againste the villein, as it is said.

Also, if a villeine sue an action of trespass or other action againste his Lord in one shiere, and the Lord sayethe that hee shal not bee answered for that hee is villeine regardant to hys Manoure, in another shiere, and the pleyntife sayethe that hee is franke and of free estate and noe villeine, thys shall bee tryed in the shiere wheare the plainerpfe hath conceived hys action, and not in the shiere where the Manoure is, and this is in fauour of li. rty, as it is iudged. M. 40. E. 3

And

Villenage.

And for this cause was made a statut in the
yere of Richard the second, y tenure of whiche
ensueth in such forme.

Also for that where manie byllaines an
nyfcs as well of great lordes as of other fol
spirituall and tempozall flee and go into citie
and places fraunchised as the city of London
and other like places, and saine dyuers suite
against their lordes because they would make
them self to be enfranchised it is accorded and
assented that the Lords nor none other shall
forbarred of their villaines because of their
answer in the lawe, by force of whiche sta
tute yf any villaine will sue any maner of ac
tion to his owne vse in any shiere where it is
hard to trye &c. againste his lord, hys Lord
may chose to plede that the plaintiff is his vil
lain and to plede another matter in barre and
if they be at issue and the issue bee founde for
the Lord, then the villain is villein as he was
before by force of the same statute. But yf the
issue bee founde for the villein then is the byl
lain franke and free for that the lord toke no
for his plee that the villeine was his villaine
but tooke it by protestacion.

Also the Lord mape not mayme his
villaine, for if hee mayme his villeine hee shal
of that bee endyted at the kynges suite. And
hee be of that attainted he shall for that make
greuous fine and raunsome to the king. Wher
it seemeth that the villein shal not haue by the
lawe

lawe anye appelle of mayme agaynst his lord,
 or in appelle of mayme a manne shall not re-
 couer but his dammages. And if the vylleyn
 in that case recouer dammages agaynst the
 lord, and hath thereof execution, the lord
 may take that that the villaine hath in execu-
 tion from the villaine, and so the recouerye
 standeth void.

¶ Also if the villaine be demaundant in an ac-
 tion real or plaintife in an action personell a-
 gainst his lord if the lord will plede in disabyl-
 itie of his person, he may not make plaine de-
 fence, but he shal defend but the wrong and
 force and demaunde iudgement if hee shal bee
 answered and shew his matter by & by how
 he is villain & demaund iudgement if he shall
 be answered.

¶ Also sixe manner of men there bee agaynst
 whom if they sue actions &c. iudgement maye
 bee asked if they shal bee answered. One is
 where the villaine sueth an action &c. agaynst
 his lord as in case aforesayde. The second ys
 where a manne outlawed vppon an action of
 Deite or trespass or vppon any other action or
 inditement, the tenaunt or the defendant maye
 shewe all the matter of the recorde and the out-
 lawry & demaund iudgement if he shal be an-
 swered because that hee is out of the lawe to
 sue any action durynge the tyme that he is out-
 lawed. The thirde is where an alien doone
 out of the allegiance of our soueraigne lord &
 synge, if suche alven sue anye action real or

f. i.

perso-

Villinage.

personall, the tenant or defendant may say he was bozne out of the kinges alleageaunce aske iudgement if he shalbe aunswered. **T** fowerth is, where a man by iudgement gets against him vpon a writte of *Præmunire* &c. is out of the kinges protection if he sue an action, and the tenant or defendaunt shewe the record against him, he may aske iudgement if he shalbe aunswered, for y^e law & the kyngs writtes been the thinges by whiche a man is protect & holpen & so duringe the time y^e a man in such case is out of the kinges protection, he is out of helpe & protect by the kinges law & by the kinges writ.

The fift is, where a man is entred and professed into religion, if such a person sue an action, the tenant or defendant may shewe that such one is entred into religion in such a place into the order of Saint Benet, and is there monke professed, or in the order of fryers minours or preachers, and is there a fryer professed, and so of other orders of religion &c. and aske iudgement if he shalbe aunswered, & the cause is this, that when a man entreth into religion and is professed, he is dead in the law and his sonne or nexte cosine incontinent shal inherit him aswell as though he were dead in deede, and when he entreth into religion, he may make his testament & his executours, they maye haue an action of dette due to hym befoze his entre into religion or any other action that executours may haue if he were dead in deede.

in dede. And if he make none executours whē
he entreth into religion, thā the ordinary may
commit the administracion of his goods to o-
ther as if he were dead in dede. The sixte is
where a man is accursed by the lawe of hoīe
Church, and he sueth an action reall or perso-
nall, the ternaunt or defendaunt may plede that
he that sueth is accursed, & of this it behoueth
him to shewe the Bishops letters vnder hys
seale, witnelling the accursing and aske iudge-
ment if he shalbe answered &c. but in this case
if the demaundant or pleintife cannot deny it,
the writte shall not abate, but the iudgement
shalbe that the ternaunt or defendaunt shal goe
quite without day for this, that when the de-
maundant or pleintife hath purchased hys let-
ters of absolution & shewed them to the court
he may haue a resommone or a reattachemēt
uppon his originall after his nature of hys
writte &c. But in the other cases the writte shall
abate &c. If the matter shewed maye not bee
aynsayde.

Also if a villeine be made a secular priest, yet
his lord may seise him as his villain & seise his
goods &c. But it seemeth y if y villain enter
into religiō & is professed &c. that y lord may
not take him nor seise him for y hee is dead in
law. And no more thā if a free mā may take
his niefe to his wife y lord may not take ne seise
his wife of the husband. But his remedye is to
haue an action againste the husbände, for that
he tooke his niefe to wife wythout hys wyll

Villenage.

and so maye the lord haue an adion agayn
the soueraigne of the house that taketh and
mitteth his villeyne to be pprofessed in the sa
house without lycence and wyll of his Lord
etc. and shal recouer his dammages to the
lue of the villaine, for he y is pprofessed mon
etc. shalbe a monke, and as a monk shalbee
ken for terme of his lyfe natural, except he
derayned by the lawe of holpe churche, and
is holden by his religion to keepe his cloyste
and if the lord may take hym out of his house
than he should not liue as a dead person, n
after his religion which shoulde be incontine
etc. For if there bee wardene in chivalrye
body and of landes of childe within age, if
childe when he cometh to the age of xiii. y
enter into religion & is pprofessed, the warde
hath none other remedy as to the warde
bodye, but a wyte of Hauishment of war
against the soueraigne of the house. And th
nye being of full age that is cosin & heire
the chylde enter into the lande, the warde
hath no remedy as to the warde of the land
because that the entre of the heire of y chyl
is lawfull in such case.

¶ Also in many diuers cases the Lord may
make manumission and in fraunchising to
villayne. Manumission is properlye when
Lord maketh his dedde to his villeyne to
franchise him by this woorde Manumitter
which is as much to say, as extra manū, s
tra potestātē alteri⁹ ponere, as to put him
of the

of the handes and the power of another. And
 for this that by such a deede the villayn is put
 out of the hand & power of his Lord, it is cal-
 led manumission. And so euerpe maner of en-
 fraunchising made to a villayne, may be sayde
 a manumission. Also if the Lord make to hys
 villayne an obligacion for a certayn summe of
 money, or graunte vnto hym by his deede an
 annuities, or let hym by his deede, landes or te-
 nementes for terme of yeares, the villayne is
 infraunchised. Also yf the Lord make a feoffe-
 ment to hys villayne of anye landes or tene-
 mentes by deede or without deede in fee sim-
 ple or fee tayle, or for terme of yeares, and deli-
 vereth vnto hym the seyn, thys is an infraun-
 chysing, but yf the Lord make to hym a lease
 of landes or tenementes, to holde at the will of
 the Lord, by deede or without deede, this is
 no fraunchysing, for that he hathe no maner of
 certaintie nor suertie of his estate, but that the
 Lord maye put hym oute when hee wil. Also
 if a Lord sue agaynst his villayn a Wrecipe of
 reddit, if he recover or be nonsuite after appe-
 lance, this is a manumission, for thys that he
 maye lawfullye enter into the lande without
 anye suite. In the same maner it is if he sue a-
 gainste his villayne an action of Dette, or of
 accompte, or of couenaunte, or of trespass, or
 anye other, thys is an infraunchysinge &c. for
 thys that hee maye emprison his villain, & take
 his goods without such suit. But if the Lord
 sue his villayne by appeale of felony, thys is

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none enfranchising to the villayn though
matter of the appell is found against the Lord
bicause that the lord may not haue the villayn
hanged without such suite. But if the villayn
were not endited of the same felony befoze he
appelle sued agaynst him and is aquited of the
felony, so that he recouer damages agaynst the
Lord for the false appeale. And in this case the
villayne is enfranchised bicause of the iudg-
ment of dammage that was gūen to hym
gainst hys Lord. And moze cases and matters
there be by which a villain may be enfran-
chised agaynst his lord. Sed de illis quere. And
so if a Lord of a manoure wpll prescribe that
it hath been accustomed within hys manour
tyme out of mynde that euery tenant within
same manour that marieth his daughter to
ny man without lycēce of the lord of the manour
shal make fine to the Lord for the tyme being
this prescription is voyde, for none oughte
make suche fines but onely villaynes, for eu-
ry free man may freely mary hys daughter
whom it pleaseth hym & his daughter. And
cause that this prescription is agaynst reason
such prescription is voyde. But in the shyre
Kent of lands holden in Ganelkind, where
the custome and tyme out of mynde the child-
males oughte euently to inherite, thys custome
is allowable, for this that it is with some re-
son bicause that euery sonne is as great a ge-
tleman as the elder sonne, and bycause of the
moze great honour and valure shal grow to
if

if he had nothing by his auncestoures, where peraduenture he might not so grow &c.

Also, where by custome called bozough English, in some bozough & pongest sonne shal inherite ail the tenements &c. This custome also standethe with reason, because & the ponger sone if he lack father & mother because of hys yong age, may least of al his brethzen help him self &c. But if a man wil prescribe & if any catel were vpon & demesnes of his manour ther doing damage, & the lord of the manor for the tyme bieng hath vsed to distreine them and the distres to retein til fine were made to him for the dammagēs at his will, this prescription is void, because it is against reason & if wroḡg be done to a man & he therof should be his owne iudge, for by such way if hee had damages but so & value of an halfe peny, hee might asseſſe & haue therof an *℥*. li. which should bee against al reason, & so such prescription or anye other prescription vsed if it be against al reason, this ought not nor wil not be alloswed before iudges. *Quia malus vsus abolendus est.*

℞ Rentes. cap. 12.

There maner of rentes there bee, that is to saye, rent seruiſe, rent charge, & rent secke. Rent seruiſe is, where a man holdeth his lād of his lord by fealtie and certeine rent or by o- ther seruiſe, and certaine rent.

Or by homage, fealtie, and certayne rente.

¶ iij.

And

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And if rent seruice at any day that it ought
 be payd be behinde, the Lord may distrein
 that of common right. And if a man now will
 geue landes or tenementes to another in the
 taile, yelding to him certeine rent by yere, he
 of common right may distrein for the rent be
 hynde though he & suche gifte was made wth
 out a deede, because & suche rente is rente ser
 uice, but in such case where a man vpon such
 a gift or lease will receiue to him rente seruice
 it bechooueth that the reuerſion of the lande
 and tenementes be in the donour or in the les
 ſour, for if a man will make a feoffment in fee
 or will geue landes in the taile, the remain
 der ouer in fee ſimple withoute a deede, reſer
 uinge to him certeine rente, ſuch reuerſion
 ſhould be, because & no reuerſion is in the donee
 and ſuch a tenaunt holdeth his lande immedi
 atlye of the lord of whom hys donour helde
 And this is by force of the estatut of Weſtm.
 Cap. 1. *Quia emptores terrarum.* For before
 the ſame estatute if one had a feoffment in fee
 ſimple by deede or withoute deede, yelding
 him and to his heires certeine rent, thys was
 rente ſeruice, and for this hee might diſtreyn
 of common right. And if he made no reuerſion
 of anie rente nor of anie ſeruice, yet the feoff
 helde of the feoffour by ſuche ſeruice as the
 feoffour held euer of his lord next aboue. But
 if a man by deede indented at day, make ſuch
 a gifte in the taile, the remainder ouer in fee
 ſc. or feoffment in fee, and by the ſame inden

sure reseruethe to him and to his heires a cer-
 taine rent, and that if the rent be behinde, that
 it shall bee lesfull to him and to his heires to dis-
 train &c. such rent is rent charge, because such
 lands and tenements be charged of suche dis-
 tress by force of the writinge onelye, and not of
 comon right. And if such a man in such a dede
 indentured, reserue to him and to his heires
 certaine rente without anie suche clause set oz
 put in the dede, that hee may distraine &c. that
 suche rent is rent secke, because that he cannot
 distraine to haue the rent if it be denied by the
 same distres, & if hee was neuer seised in this
 case of the rent, he is without remedy as shall
 be sayde hereafter. Also if a man seised of cer-
 taine land graunt by his dede wolle, oz by en-
 denture, a yearly rent issuing out of the same
 lande to another in fee simple oz in fee taylor,
 oz for terme of lyfe &c. with clause of distres,
 &c. then that is rent charge, and if it bee with-
 out clause of distresse, then it is rent seck, and
 note well, that rente secke idem est quod red-
 ditus siccus, and for that, that no distresse is
 incident to it. Also, if a man graunt by his dede
 to another, and the rent is behinde, the graun-
 tee may choose if he wil sue a writ of Annuity
 of it against the grauntour, oz distrain for the
 rent behinde, and the distresse to withhold til
 he bee of that payde. But he maie not doe and
 haue bothe together, for if he take a writte of
 Annuity, then the lord is discharged. And if hee
 take not a writ of Annuity, but distrain for the
 arrears

Rentes.

arrerages, & the tenant sueth a *Replegiare* & the grauntor answereth the taking of the distresse in the lande &c. in court of record, then is the land charged, & the person of the grauntor discharged of an action of annuitie.

¶ Also, if a man will that another shall have rent charge issuing out of the landes but he will not that his persone shall bee charged in a maner by a writ of annuitie, then hee may haue such a clause in the end of his dede. *Pro uiso semp quod presens scriptum, nec aliquando in eo specificatum, non aliquo modo se extendat ad onerandam personam meam per breue de annuali redditu. Sed tantummodo ad onerandum terram et tenita preb de annuali redditu preb* And then is the land charged, & the person of the grauntor discharged.

¶ Also, if a man make such a dede in such maner, & if *A. of B.* be not yerely payd at $\frac{1}{2}$ feale of Christmas for terme of lyfe of *xx. s.* of lesseful money, that then it shalbe lesful to the said *A. of B.* to distreine, for it in the Manoure of *F. &c.* this is a good rent charge, because that the manour is charged of the rent by way of distresse. And yet the persone himselfe & made such a dede is discharged in this case of an action of annuitie, because $\frac{1}{2}$ hee graunted not by his dede anye annuitie to the said *A. of B.* but graunted onely that hee may distreine for his annuitie.

¶ Also, if a man haue a rent charge to himselfe and to his heires issuing out of certaine land, if hee

if hee purchase any parcell of the lande to hym
and to hys heires, all the rents is extincte and
adnulled bycause the rente charge may not in
suche maner be apporcioned, but if a man that
hath rent seruice purchase parcell of the lande
whercof the rente is, thys shall not extinct all,
but for the porciō, for the rente seruyce in suche
case maye bee apporcioned and shall bee appor-
cioned after the value of the lande, but if a te-
naunte holde hys lande by seruyce to yelde to
hys Lorde yearly at suche a feaste an horse, or
an hauke, or such thyng semblable, if in suche
case the Lorde purchase parcell of the land, the
seruyce is gone, bycause that such seruyce may
not bee seuered nor apporcioned, but if a man
holde hys lande of another by homage, fealtie
and escuage, and by cerryne rente if the Lord
purchase parcell of the lande &c. In that the
rente shalbee apporcioned as is also esaiide, but
yet in this case the homage and fealtie abidethe
whole to the Lorde, for the Lorde shall haue
the homage and fealtie of hys tenaunt for the
remenant of landes and tencementes holden of
hym as hee hadde befoze &c. for thys that suche
seruices bee no annuell seruices, and maye not
bee apporcioned. But the escuage maye & shall
bee apporcioned after the quantitie and rate of
the lande.

¶ Also if a man haue a rent charge, and hys
father purchaseth parcel of the tencimēts char-
ged in fee and dyethe, and that parcell dyscen-
deth to his sonne that hath the rēt charge, now
this

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this rente charge shalbe apporcioned after the value of the lande, as is aforesayd of rent service, because that suche a porcion of the land purchased by the father, cometh not to the sonne by his owne deede, but by dyscent and course of the lawe.

Also if there bee Lord and tenaunt, and the tenaunt holdeth of his Lord by fealtie and certayne rent, and the Lord graunteth the rent by his deede to another &c. reseruyng to hym the fealtie, and the tenaunt attourneth to the graantee of the rent, now such rent is rent secke to the graantee for this that the tenementes bee holden of that graantee of the rent but be holden of the Lord that receyveth to hym fealtie. And in the same maner it is where a man holdeth his land by homage, fealtie, and certayne rent, if the Lord graunt & rent, sayng to hym the homage, such rent after such graunt is rent secke, but where landes or tenementes be holden by homage, fealtie, and certayne rent, the Lord will graunt the homage of his land by his deede to another, sayng to hym the tennement of the services, and the tenaunt attourneth to hym after the fourme of the graunte, now in this case the tenaunt holdeth his land of the graunt, and the lord that graunteth the homage shall not haue but the rente as rent secke, and shall neuer distrayne for the rent for this, that neyther homage, nor fealtie, nor escuage may be said secke, for he hath or ought to haue of his tenaunte homage, or fealtie, and escuage.

escuage may of common right dystaine for it
if it bee behynde, for homage, fealtie & escuage
been seruices by which lands and tenementes
be holden, and ben such that in maner may bee
taken but as seruyces. But otherwile is of
rent that was once rent scrupce for thys that
when it is leuered &c by the graunt of y^e lord
fro the other seruices, it may not be saide rent
seruice for this y^e hath not to it fealtie whyche
is incident to euery maner of rent seruice, and
for this it is saide rent secke.

Also if a man let land to another for terme
of lyfe, reseruinge to hym certeyne rent, if hee
graunt the rent to another sayng to hym the
reuerfion of the lande so letten by his drede &c.
suche rent is but rent secke, for this that the
grauntee hath nothing in the reuerfion of the
land. But if he graunt the reuerfion of y^e lande
to another for terme of lyfe and the tenaunt at=
tourneth &c. then hath the grauntee the rent
as rent seruice because hee hath the reuerfion
for terme of lyfe. And so it is to be vnderstand
that if a man geue landes or tenementes in
the tayle, reseruyng to hym and to hys heires
certaine rent or let land for terme of lyfe refer=
uyng certeyne rent if he graunt the reuerfion
to another, and the tenaunt attourneth al the
rent and scrupce passeth by the woorde of the
graunte of reuerfion for this that all the rent
and seruice in suche case bee incidences to the
reuerfion and passe by the graunt of reuerfi=
on. But though he graunt the rent to another
the

Rentes.

the reuerſion paſſeth not by ſuche graunt &c. And ſo note well the diuerſitie. And ſo it holden Paſche xii. E. quarti. But it is aduoged An. xvi. lib. Aſſarum where as the ſeruices of the tenant in taile were graunted the ſame was a good graunt yet notwithstanding the reuerſion remaines.

¶ Also if there be Lord, meſne and tenaunt and the tenaunt holdeth of the meſne by ſix pence of five ſhillings, and the meſne holdeth of the lord by twelve pence, if the lord aboue purchaſe the tenaunce in fee, then the ſervice of the meſnaltie is extinct ſo that when the lord aboue hath the tenaunce, hee holdeth of the Lord nexte aboue hym. And if hee ought to holde of him that was meſne, then hee ſhould holde one ſelfe tenaunce immediatlye of dyuerſe Lordes whiche ſhoulde bee inconuenient, and the lawe will ſooner ſuffer a miſchief than an inconuenience, and ſo this the ſeygnioye of the meſnaltie is extincte. But in ſo much that the tenaunt helde of the meſne by five ſhillings and the meſne helde but by xii. d. ſo that he had more aduantage by iiii. s. than hee payde to his Lord, hee ſhall haue the ſayde iiii. s. as a rent ſeek perchy of the Lord that purchaſed the tenaunce.

¶ Also if a manne that hath rent ſeek is once ſeyſed of anye parcell of the rent, and after if the tenaunt will not paye the rente that is behynde, this is his remedye. It becometh hym to goe by hym ſelfe, or by another, to the

to the landes and tenementes, whercof the
rent is issupnge, and there to demaund the ar-
rerages of the rent. And if the tenaunt denye
to paye it, thys denying is a disseysne of the
rent. Also, if the tenaunt at the tyme bee not
ready to paye it, this is a denying and a dislei-
sin. Also, if the tenaunt, noz none, other bee
dwelling bypon the landes oz tenements whā
he asketh the arrerages &c. this is a denying in
lawe, and a disseisin in dedde, and of such dis-
seysins hee maye haue an assise of nouell dys-
seysine againste the tenaunt, and recouer the
eylin of the rent, and the arrerages, and hys
damages and costes of hys wrytte and of hys
plee &c. And if after suche recouerye the rente
be another tyme denyed him, thā he shal haue
redisseysine and recouer double damages.
And it is to be had in mynde, that thys name
Assise is Equiuocum. For sometyme it ys
taken for a Turpe, for in the beginning of the
recorde of Assise of newel disseisine, the recorde
hall begynne thus. (Assisa venit recognis.)
which is to saye, y iuratores befi recogn, and
the cause is for this, that by the wryte of assise
is commaunded to the shirife quod faciat xii.
liberos & legales homines de vicineto &c. vi-
dere tenementum illud & nomina eorum im-
peditari, et qđ summi eos p bonos summi q sint
opā iusticiariis & ii. parati inde facere recogni-
tionein &c. And for this, that by force of suche
originall wrytte, a Pannell by force of the
same wrytte ought to be returned &c. It is
sayde

Rentes.

sayde in the beginnyng of the record in assise
Assisa venit recognoscere. Also in a writ of right
it is commonly sayde, that the tenant may sue
him in good & in the great assise &c. Also there
is a writte in the Register, called De magna
assisa eligenda, so is this a good prooofe that
this name assise, sometyme is put for the Jury
type, and sometyme it is taken for all the writte
of assise, and after that entent it is mooste pro-
perly vnd mooste comunlye taken, as assise of
nouel disseisine is taken for all the writte of a
sise of nouel disseisine. In the same maner a
sise of comon pasture is taken for all the writte
of assise of common pasture, and assise of mes-
saunge, and assise of Warrein presentment
&c. But it seemeth that the cause is why some
writtes at the beginnyng were called assise
for this, that by euery suche writte it is com-
maunded to the shirife that he summon a Jury
whiche is as much to say, y he ought to sum-
mon a Jury &c. and sometyme assise is taken
for an ordynance, for to sett certeine thinges
in a certeine rule and disposicion, as an ordy-
nance that is entred in the auncient estatute
is called Assisa pacis & seruicie. Also if there
bee lord and tenaunt, and the Lord graunt-
eth the rente of his tenaunt by deede to an-
other, sauinge to hym the other seruyce, and the
tenaunt attourneth, this is a rent secke as
is aforesaide. But if the rent bee denyed by
at the next day of payment, he hath no remedy
for this that he had not therof any possession.

But if the tenaunt when hee attournethe to the
 grauntee or after will geue a peny or an halfe
 peny to the grauntee in the name of seisin of reue
 then if after at the nexte daye of payment the
 rent be denyed him, he shal haue assise of **For-**
el disseisin, and so it is if a man graunt by his
 reede a perely rente issuing out of his lande to
 another &c. If the grauntour than after paye
 the grauntee. i d. or an halfe peny in the name
 of seisin of the rent than if after the first day of
 payment the rent bee denyed, the grauntee maye
 haue assise, or els not. Also of rente seck a man
 may haue assise of **Wortdauncester**, or a writ
 of **Apel** or **Colinage**, and all other maner of ac
 tions reals, as the case lyeth as hee may haue
 any other rent.

Also there be thzee causes of disseisin of reue
 nuer, that is to say, rescous, repleuine, & en
 closure. Rescous is, when the lord distreyneth
 the land holden of him for his rent behynde
 the distresse bee reserued fro him or the lord
 lye vpon the land, and woold distrayne and
 the tenaunte or an other man wyll not suffer
 in &c. Repleuin is when the lord hathe dis
 trayned, and repleuin is made of the dystresse
 by writte or by playnte &c. Enclosure is if the
 lordes and teneementes be so enclosed, that the
 teneementes may not come wythin the lande and te
 nementes for to distrayne, and the cause why
 the things so doone bee disseisins made to the
 lord is for this, the by such things the lord is
 turbed of the meane by which hee ought to

G.i.

haue

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hane come to his rent. And fower causes be
disseisin of rent charge, that is to saye, rescow
repleuin, enclosure, land denyer, for denyng
a disseisin of rent charge as it is aforesayde
rent secke, & two causes bee of disseisin of
secke, that is to say, enclosure, and denyer,
yet it seemeth y there is an other cause of
seisin of all the threer rentes aforesaide, that
whan the Lord is goyng to the land holder
hym for to distreyne for the rent being beh
the tenant hearing this, encoſtreth him & fo
stalleth him the wyape with force and arme
manaſeth him in such fourme that he dare
come to the land for to distrayne for his rent
hynd &c. for doubt of death or bodely hurt,
is a disseisin, for this that the lord is dist
of the meane wherby hee oughte to come
his rent, and so it is if by such forstalling
naſſing hee that hath rent charge or rent se
is forstalled, or dare not come to the land
aske the rent behynde.

The thirde Booke.

¶ Parceners. Cap. 1.

Parceners bee in two maners, that is
say, parceners after the course of the co
mon lawe, and parceners after the co
me. Parceners after the course of the co
lawe be, wher a man or a woman bee seſſed
certein lande or tenementes in fee simple
taile and hath none yſſu but daughters &

and the tenements discend to the daughters & the daughters enter into the lands & tenements to them discended then they bee called parceners & be but one heire to their auncester & they be called parceners for this by writte that is called *Writ de participatione faciēda* the lawe will constrain them that participation shalbe made among them & if there bee daughters to whome the land discendeth then they bee called twoe parceners & if they be three daughters they be called three parceners, and four daughters four parceners, & so forth and if a man seales of lands in fee simple or in fee taile dye without issue of his body, and the tenements discende to his sisters they be parceners as is aforesaide. In the same maner it is where he hath no sisters but the land discendeth to his auncles they bee parceners, but if a man haue but one daughter shee may not bee sole parcener but daughter and heire. And it is to wete that partition betwene parceners may be made in diuers maners, one is when they agree to make partition and make partition of the tenements, as if there bee twoe parceners to deuyde betwene them & tenements in two partes every parte by him self in severalty of even value, and if there be three parceners to deuyde the tenements in three partes in severalty. An other partition ther is to choose by agreement betweene them & certeine of their friends to make & partition betwene them of lands & tenements in the fourme aforesayd.

G.ii.

And

Parceners.

And in such cases after such partition the elder daughter shall choose first one of the parts so devided which shee will haue for her part. And then the second daughter after her other parte &c. if it so bee that there be many sisters &c. If it be not that they be otherwise agreed betwene them, for it may be agreed betwene them that one of them shall haue the tenementes and another such tenementes without any such first election and the part that the elder sister hath is called in latine *initia pars*, but if the parceners agree that the elder sister shall make partition of the tenementes in the fourme aforesaid, and if shee then it is said that the elder sister shall choose the laste parte after eche of her other sisters. Another partition & allotting there is, where there be fower parceners & after such partition made of the landes every part of the land is by it selfe written in a little scrowe, and is conered all in waxe in a manner of a ball so that no man maye see the scrowe, and is f fower balles of waxe putt in a Bonnet upon a keepe in the handes of an indifferente man and then the elder daughter first shall put her hand in the bonnet whiche shall take a ball of waxe & the scrowe win f same ball for her part among partye, and then the second sister shall put her hand in f Bonnet & shall take another, and then the thirde sister the thirde ball &c. and in this case it behoueth ech of them to hold fast to their chaunce & allotment.

Also an other particion there is as if there be fower parceners and theye wyl not agree a particion shalbe made betweene them, then one of them may haue a writ de particione facienda against the other thre sisters, or twoe may haue a writte of participatione facienda, against y other or the thre against y fowerth at the election and when iudgement shal be geuen vpon suche a writ, the iudgement shal be such that particion shalbe made betwene y parties and the shiriffe in his propre persone shal goe to the landes and teneimentes &c. and that he by the othe of .xij. true men of his bay- wike &c. shall make particion betweene the parties the one party of the same landes shall be assigned to the pleintif or to one of y plein- tifes, & an other party to an other &c. not ma- kinge mencion in the iudgement of the eldest sister moze then of the yongest, and of the par- ticion that hee hath, this doone hee shall make notice to the iustices &c. vnder hys seale and the seales of the .xij. &c. and so in this case maye you see that the elder syster shal not haue the first election &c. but the shirife shal assigne the parte that shee shall haue &c. and it maye bee that the shirife will assigne first a parte to the yonger sister and the laste part to the elder.

And note well particion by agreement bee- twene parceners maye by the lawe bee made among them as well by woord without deede as by deede.

Also if twoe meses discende to twoe par-
ceners
G. ij.

Parceners.

teners and the one mese is worth by yere. **s.** and that other but. **x. s.** by yere, in this partition maye be made betwene them in fourme y the one parcener shall haue the one mese and the other parcener shall haue the other mese, and hee that shall haue the mese **xx. s.** and his heires shall paye a yerclye rent of. **v. s.** issuing out of the same mese to another parcener and to his heire for euer, because the curye of them shall haue euen in value, and suche partition made is good inough, and the same parcener that shall haue the rent of. **v. s.** and hys heire may distreyn for the rent of common right in the same mese of the value of. **xx. s.** if y rent of. **v. s.** be behinde at any tyme in whose handes soeuer the same mese cometh the thoughe there was neuer wrytyng made of it betwene them, in the same maner is of partition of all maner of landes and tenementes &c. where suche rent is reserued to one or to diuers parceners vppon suche partition &c. but suche rent is not rente seruiçe, but rente charge, of common right had and reserued for egalty of the partition. And note well that none bee called parceners by the common lawe but women or the heires of women, and whiche come by landes and tenementes by discent, for if sisters purchase landes or tenementes of this they been called Joyn tenants and not parceners. Also if two parceners of lande in fee simple make partition betwene them &c. and the parte of that

balu

shalneeth much moze then the part of the other,
if they wer at the tyme of particion of full age,
that is to say, of xxi. yere, than they alway shal
abide and neuer be defeated, but if tenementes
whercof bee made particions bee to them in
fee taile, and the partye that one hath is much
better in yerelye value than the parte of the o-
ther, howbeit that theye bee excluded duringe
theire lyues to defete the particion, yet if the
parcener that hath the lesse part in value hath
issue and dyeth, the issue maye disagree to the
particion, and enter & occupy in common that
other parte that is allotted to her aunt, & so the
aunt may enter and occupy in common the o-
ther parte allotted to her sister, as no particion
thereof had been made &c.

¶ Also, if two parceners of tenementes in fee
take husbands, and they and their husbands
make particion betwene them, if the parte of
one bee lesse in yerelye value then the parte of
the other, duringe the lyues of the husbandes, the
particion shalbee in his force and strength, yet
after the death of the husband the wife y^e hath
the lesse parte &c. the same wife or womā may
enter in her sisters part as it is aforesaide, and
defete the particion, but if the particion so made
betwene the were such, y^e at tyme of lottemer
were egall of yerelye value, then it may not af-
ter bee defeted in suche cases.

¶ Also, if there bee two parceners & y^e yonger
of them bee within the age of xxi. yere, and
particion is made betwene them, so that the

G. liij. parte

Parceners.

parte that is allotted to the yonger, is lesse
valne then the part of that other. In this case
the yonger during the tyme of her nonage, and
also when shee cometh to full age of xxi. years,
maye enter in the porcion of her sister allotted,
&c. and defeate the particion, but such a parce-
ner ought to take herde when shee cometh to
full age, that shee ne take to her own vse, all
profites of the tenemēts to her allotted, for
that shee agreth to the particion at such age,
in which case the particion shall stande and
abide in his force and strength &c. but perau-
ture the profites of the half shee may take lea-
ving the profits of the other halfe to her sister
&c. It is to wote, that when it is sayd males
and females bee of full age, that shalbe under-
standed of the age of xxi. yeare, for if any feoff-
ment or graunte, reliefe, confirmacion, obliga-
cion, or anye other wryting befoze anye suche
age bee made by anye of them &c. or that anye
within suche age bee bailife or receyver with
anye man &c. all serueth for noughte and maye
bee auoyded. Also a man befoze suche age shall
not bee swozne in no iurpe nor no inquisition.
Also if teneimentes bee geuen to a man in the
tyle which hath as muche lande in fee sim-
ple, and hath yssue two daughters & dieth, and
the daughters make particion betwene them,
so that the landes in fee simple bee allotted to
yonger daughter in alloswaunce of the tene-
mentes tyled, allotted to the elder daughter,
if after suche particion the yonger daughter a-
liene the

Alieneth the lande in fee simple to an other in fee, and hath the issue a sonne or a daughter and dyeth, the issue maye enter in the tenementes tyled, and them holde in proprietye with their Aunte, and thys is for two causes, one is for that, that the issue maye haue no remedye of the lande aliened by his mother, for that the lande was to her in fee simple, and in so much that hee is of the heires in the tayle, and hath nothyng recompensed of that, that to hym belongethe of the tenementes tyled, and name is when suche particion maketh no discontinuance of the tayle, as shall bee sayde hereafter in the Chapter of discontinuance. But the contrarie is holden **M. 10. D. 6.** that is to saye, that they maye not enter vpon the parcener that hath his land tyled, but is sent to his for medon.

Another cause is, for that, that it shalbe erected the folow of the elder sister, that she wolde agree to the particion where shee myght haue had half the land in fee simple, and halfe of the tenementes in the taile for purparty, and so to bee sure without damage &c. Also if a man seised in a ploughe lande by iuste title dyeth, leueth an infant within age of another ploughe lande, and hath the issue two daughters, and dyeth seyled of both those plough landes, the infant than beeinge within age, & the daughters come & make particion, then if one plough land is lotted to the purparty of the one, as parcase to the yonger sister in allowaunce of that other

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ther ploughe lande that allotteth to the purp
ty of that other, so that after the infant entred
in the ploughe lande of the wyche hee was
disseised vppon the possession of the parcener
that hathe the same plough lande, than the sa
me parcener may enter into the other plough
lande that the syster hathe and holdeth in pa
rcenary with her, but if the yonger sister alien
the same ploughe lande to an other in fee sim
ple befoze the entre of the enfauente, and after
childe entreth vppon the possession of the alle
ne, then shee maye not enter into the other
ploughe lande, for this that by her alienation
shee hathe vtterlye dismissed her selfe to ha
uene anye parte of the tenementes as parcener, bu
t if the yonger sister befoze the entre of the en
fauent make thereof a lease for terme of yeres,
or for terme of life, or in fee taile, saving the re
uerfion to her, and after the childe entreth,
ther peraduenture it is otherwise, for this that
shee dismissed not her selfe of all that, that was
in her, but hath reserved to her the reuerfion of
the fee simple &c.

¶ Also if there bee thre or fower parceners
that make particion betwene them, if the part
of the one parcener bee defeted by such lawfull
entry, shee maye enter & occupy the same other
lands of all the other parceners, and compelle
them to make new particion of the other lands
betwene them &c.

¶ Also, if there bee twoo parceners, and
one taketh an husbnde, and the husbnde and
the

the wyfe haue issue betwene them, & the wyfe
dieth, and the husband holdeth him in y^e halfe
as ternaunt by the curtesy. In this case y^e par-
cener y^e suruiuer & the tenant by the curtesie
may wel make particiō betwene thē &c. And
if the tenant by curtesy wil not agree to make
partition, then the parcener y^e suruiuer may
haue a writ de participacione faciēda &c. and
compel him to make partition. But if the te-
nāt by the curtesy wil haue particiō betwene
them, & the parcener y^e suruiuer wil not haue
it then the tenant by the curtesy shal haue noe
remedy for to haue partition for hee maye not
haue a writ de participacione faciēda, for this
y^e hee is not parcener, for such a writ lieth for
prencers al onely. And so may ye see y^e the writ
de participacione faciēda lieth against tenāts
by y^e curtesy, & yet him self may not haue such
a writ.

C Parceners by the custome. cap. 2

P Parceners by the custome bee where a man
seised in fee taile of the lands oz tenements
that bee of the tenure called Gauekinde with
in y^e shire of Kent, & hath issues diuers sōnes
and die the, suche landes and tenementes shal
disceide to all the sonnes by the custome, and
theye ecuenlye shall inherite and make parti-
cyon betweene them by the custome as fe-
males doe, and a writ de participacione faciē-
da lieth in this case as betweene females, but
it

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It becometh in the declaracion to make mencion
of the custome. Also suche custome is in other
places in England and also such custome is in
North wales.

¶ Also there is an other particion that is of
an other nature, and in another fourme than
any of the particions aforesaide, as a man seys
of certaine landes in fee simple hathe (supposeth)
two daughters, and the elder is married, and
the father geueth parcell of the same landes
to the husbände with his daughter in frank
marriage, and dyeth seysed in the remenaunt
the whiche remenaunt is of more greater va-
lue by yere then be the landes geuen in frank
marriage.

¶ In this case the husbände and the wyfe
shall haue nothing for their parte of the sayd
remenaunt, but yf they wil put their landes
geuen in frank marriage in hotchpot with the
remenaunt of the lande with her sister, and yf
they wil not do so, then the yonger sister may
occuppe the same remenaunt, and take to her
the profit onelye, and it seemethe that this
wozd hotchpot is in Englishe a pudding, for
in suche a pudding is commonlye put not one
onelye thing, but one thing with an other and
for this that it behoouethe in suche case to put
the landes geuen in franke marriage with the
other landes in hotchpot yf the husbände and
the wyfe will haue anye thing in the other re-
menaunt &c. This wozd hotchpot is but a terme
of similitude, & is as much to say as to put the
landes

landes geuen in frank mariage & other landes
in fee simple &c. together, & this is to such en=
tent to accompte the value of all $\frac{1}{2}$ landes that
is to say, of $\frac{1}{2}$ landes geuen in frank mariage &
the remnaunt that was not geuen and than
particion shalbe made in this fourine that en=
sucth. As put case that a manne sealed of xxx.
acres of lande in fee simple everye acre in va=
lue xii. d. by the pere which hath issue 2. daugh=
ters, and the one is couert baron, & the father
geueth x. acres of the xxx. acres to the husband
with his daughter in franke mariage & dyeth
sealed of the remnaunt, then the other sister
shal enter in the remnaunt, that is to saye in
the xx. acres and shall occuppe it to her owne
use, except the husbände and the wyfe will put
theire x. acres euen to them in franke mary=
age wyth the other xx. acres in hotchpott, that
is to saye together and then when the value
is knowen of euery acre, that is to say, everye
acre is perelye woorth xii. d. then $\frac{1}{2}$ particion
shalbe made in such forme, that is to saye, that
the husbände and the wyfe shall haue aboue
the x. acres geuen to them in franke mariage
v. acres in seueraltie of the xx. acres and that
other sister shall haue the remenaunt, that is
xv. acres of the xx. acres for her parte so that
accompting the x. acres that the husbände and
the wyfe had in franke mariage, and the other
v. acres of the xx. acres, the husbād & the wyfe
haue as much in perely value as $\frac{1}{2}$ other sister
hath, & so alway vpon such particion $\frac{1}{2}$ landes
geuen

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geuen in franke mariage abyde to the donee
 or to the heires &c. after y^e forme of the gift &c.
 For if y^e other parcener should haue nothig of
 this y^e is geue in frākmariage, of this shoulde
 folow an inconuenience & a thing agaynst re-
 son whiche the law will not suffer &c. and the
 cause why that lands geuen in frank mariage
 shalbe put in hotchpot is this, y^e when a man
 geueth lands and tenements in frank mar-
 riage with his daughter or wyth hys other co-
 sin, it is to vnderstand by the lawe that suche
 gift made by such wordes franke mariage is
 an auancement of his daughter or of his co-
 syn, and namely when the donour & his heires
 shal not haue any rent nor seruyce of hym ex-
 cept fealtie vnto the fowerth degree be passed
 &c. and for suche cause the law is that she shal
 haue nothinge of the other landes and ten-
 ementes dyscended to the other parceners &c.
 but if she wil put the tenements geue in frā-
 mariage in hotchpot as is aforesaid. and if her
 wil not put the lands geue in frank mariage
 in hotchpot, then she shall haue nothing in the
 remenant for this that it shalbe vnderstand by
 the law that she is sufficientlyc aduanced to
 whiche aduancement shee agreeth & holdeth
 her content, and the same law is in this mat-
 ter betwene the donees in frank mariage and
 the other parceners as to putt in hotchpot &c.
 the same lawe is betwene the heires of the
 donees in franke mariage and the parceners
 &c. if the donees in franke mariage dye before
 their

theire auncestors, or befoze suche partition &c.
as to put in hotchepot &c. And note well that
giftes in franke mariage was the comon lawe
befoze the statute of westminster the seconde,
and alway after so hath beene vsed and conti-
nued &c.

¶ Also, such putting in hotchpot &c. is where
lands or tenements that were geuen in frank
mariage discend fro the donours in frank ma-
riage alonelye, for if the landes discende to the
daughters by the father the donour, or by the
mother the donoure, or by the brother the do-
nour or other auncesters, & not by the donour
&c. there it is otherwise, for in such case shee to
whome suche gift in frank mariage is made,
shall haue her part as if no such gift in franke
mariage had been made, for this that she was
not auanced by hym &c. but by an other.

¶ Also, if a man seised in xxx. acres of lande
every acre of euen perely value, hauing in issue
two daughters as it is aforesaid, and geueth
of this to the husbände of the daughter xv. a-
cres in frank mariage, and dyeth seyled in the
other xv. acres, in thys case that other syster
shall haue the xv. acres so discended to her on-
ly, and the husband and the wife shall not put
in such case the xv. acres to hym geuen in frāk
mariage in hotchpot &c. for this that the tene-
ments geuen to him in franke mariage bee of
as good perely value as the other landes dis-
cended &c.

¶ For

Parceners.

For if the landes geuen in franke mariage where of as euen value as the remnaunt, or moze value, then in bayne and to none entailed such landes geuen in franke mariage shall be put in hotchpot &c. for this that shee may haue nothing of the other landes descended &c. for if shee shold haue any parcell of & other landes descended, then shoold shee haue moze in value, then her sister &c. whiche the lawe sayeth not &c. And as it is sayd in the cases aforesaid of two daughters or two parceners, in the same maner, and in lyke cases is, where there be two sisters after that, as the case and the matter is &c. And it is to wite, that lands and tenementes geuen in franke mariage, shall not be put in hotchpot, but with the lands descended in fee simple, or of landes descended in fee taile partition shalbee made as if no such gift in frank mariage had been made. Also no lands shalbee put in hotchpot with other, but lands that bee geuen in frank mariage alonely. for if any womā haue any other lands or tenementes by anye other gift in the taile, shee shall not put such land so geuen in hotchpot &c. but shee shall haue the parte of the remenant, descended &c. that is as much as the other parcener shall haue of the same remenant.

Also an other partition may bee made betweene parceners, that varieth from the partitions aforesayd, as if there bee thre parceners, and the youngest wold haue partition, and the other two woold not, but will holde in part

enary that, that to them belongeth wythoute
particion. In this case if one part bee allotted
in seueraltie to the yonger sister after that, &
she ought to haue, then the other may holde &
reuerenant in parcenary & occuppe in common
without particion if they wil, & such particion
is good inough. And if after the elder & middle
parcener wil make particion betwene them of
that & they held, they may wel do so whē they
please. But where particion shall bee made by
force of a writ de Participacione faciend &c.
where other wise it is, for there behoueth & eue
re parcener haue his parte in seueraltie &c.
More shalbe said of parceners in the chapter
of Jointenants, & also in the chapter of te-
nants in common.

CJointenants. cap.3.

Jointenants be as a man seyled of certaine
landes or tenements &c. and therof hath en-
joynted two, or three, or four, or more, to haue
and to holde to them and to their heires, or to
haue and to holde to them for terme of their
liues or for terme of anothers lyfe, by force of
which feoffment they be seyled, such bee ioin-
tenants.

Also if two or three disseise another of anye
landes or tenements to their owne vse, then
the disseysours be iointenants. But if theye
disseise another to the vse of one of them, then
they be no iointenants, but he to whom the

H.1.

vse is

Ioyntenaunts.

Use of the dysseisin is made sole tenaunt, & other haue nothing in the tenancy but be led coadiutors to ϕ disseisin &c. And note ϕ disseisin is properly where a mā entreth any lands or tenements where his être is lesul, & putteth him out ϕ hath the franktenēt &c. And it is to wete, ϕ the nature of tenancy is, ϕ he that suruiuet shal haue only the whole tenancy after such estate as he haue if ϕ iointure bee continued &c. As if. iij. ioyntenaunts be in fee simple & ϕ one hath issu & dieth, yet they that suruiue shal haue the tenement whole, & the issue shal haue nothinge, & if the second iointenant haue issue & die, yet ϕ third ϕ suruiuet shal haue the tenements whole. Shal haue them in fee simple to him & to his heirs, but otherwise it is of parceners. For. iij. parceners be, & before anye partition ϕ hath issue & dieth, ϕ that to him belongeth shal discend to his issu, & if such a parcener dye out issue, then that, that to her belongeth shal discend to her heirs, so that they shal haue the by discend & not by the suruiuoure as ioyntenaunts haue &c. And as the suruiuoure haue the place among ioyntenaunts &c. in the same maner he holdeth the place amonge them ϕ haue ioynte estate or possession with other of cattel reall, or cattell personall. As if a lease of landes or tenementes bee made of manye terme of yeares, he that suruiuet of the lease shal haue the tenements whole to him during the terme by force of the same lease. And

by hoys, or other cattel personall bee geuen to
any mo, he that suruiucth shal haue them to
him selfe.

In the same maner it is of detts & duties &c
if an obligacion bee made to many for one
p, he & suruiucth shal haue all & det & so ye
of al other couenants & contracts.

Also some ioyntenauntes maye bee that
maye haue ioynt estates and bee ioyntenauntes
for terme of their liues and yet they haue se-
uerall inheritaunces. As the landes be geuen
to two menne and to the heires of their two
bodies engendred. In this case the donees
haue ioynt estate for terme of their two liues
and they haue seuerall inheritance. For if the
one of the donours haue issue & dye, the other
that suruiucth shal haue al by the suruiour
for terme of his lyfe. And if he that surui-
ucth hath also issue, and dye, then the issue of
the one shall haue the halfe of the lande, and
the issue of the other shall haue the other halfe
of the lande, and theye shall holde the lande
betweene them in commune, and be not ioin-
tenauntes but tenauntes in commune. And
because that such donees in suche cases haue
ioint estate for terme of their liues, is thys
this, that at the beginninge landes weare
geuen to them two, which woordes withoute
more saying make a ioint estate to the for term
of their liues. For if a mā wil let land to ano-
ther by deede or wout deede, not making men-
tion what estate he hath, & of this maketh liue-

Ioyntenaunts.

type of seplein . In this case the lesse shall haue
estate for terme of his lyfe, and so in so much
that the lands were geuen to them, they haue
a ioint estate for terme of their liues: and for
cause why they haue seuerall inheritances
this, in so muche that they cannot by possi-
ble haue an heire betwene them engendred
a man and a woman may haue &c. then if
will that their estate and their inheritance
shalbee suche as reason wyll after the forme
and effect of the wordes of the gift, and then
to the heires that the one engendreth of his
body by any of his wyues, and the heires of
the other engendreth of his body by any of
his wyues &c. So it behoueth by necessitie of
reason that they shall haue seuerall inheritances
And in suche case, if the issue of one of the
donees after the death of the donees dye so
that hee hath no issue aliue of his body engendred
then the donour or his heire maye enter in
halfe as in his reuerſion, though the other
donees hath issue aliue &c. And if cause be
so muche that the inheritance bee seuered
in reuerſion in the law is seuered &c. and the
issue of the issue of the other shall holde
place to haue the whole, & so as it is said of
les in the same maner it is where land is ge-
uen to .ij. females & to the heires of their .ij. bodies
begotten.

¶ Also if landes bee geuen to two females
to the heires of one of them, thys ys a
iointure, and the one hath a freeholde, and

other hath fee simple, & if hee that hath the fee
 sic, he y^e hath y^e free hold shall haue the hole by
 the suruiuor for terme of lyfe. In y^e same ma-
 ner it is wher tenites be ghyuen to two, & to the
 wyres of the bodye of one of them engendred,
 the one hath free hold, & the other fee taile. Al-
 so if two ioyntenauntes be seyled of estate of fee
 simple, and the one graunteth a rent charge by
 his deede to another oute of that, that to hym
 belongeth &c. In thys case duringe the lyfe of
 the grauntour, the rent charge is effectuell.

But after his decease the rent charge is boide
 to charge the land, for he that hath the land
 by the suruiuour shall hold al the land dischar-
 ged. And the cause is, for this that he that sur-
 uiueth claymeth to haue the lande by the sur-
 uiuour &c. and not by discent of his felowe &c.
 But otherwise it is of parcners, for if there
 be two parcners of tenementes in fee sim-
 ple and befoze any particion the one chargethe;
 that, that to hym belongethe by his deede of a
 rent charge &c. and dyeth without issue, & that
 that to hym belongethe descendeth to the other
 parcener. In thys case the other parcener shal
 hold the lande charged &c. for thys that hee co-
 meth to the halfe by discent as heyre &c.

¶ Also if there be two ioyntenauntes in fee
 simple within one boroughe where the landes
 and tenementes wythin the same boroughe be
 deuyfable by testament, if the one of the sayde
 ioyntenauntes deuyfe that, that to hym belon-
 geth by testamente &c. and dye, thys deuyfe is

Ioyntenautes.

boyde. And the cause is for this that no deed may take effect but after the death of the donor. And for this that by his death all & lands incontinent cometh by the lawe to his heirs that suruiueth by the suruiuour which needeth not hath nothing in the lande, by the lawe but in his owne right by the suruiuour after the course of the lawe &c. for this cause the boyde is boyde.

¶ But otherwyse it is of parceners leasehold tenementes deuydable in suche case of deuydable &c. Causa qua supra. Also it is commonly sayd that euery ioyntenant is seised of the land that he holdeth ioyntly &c. throughtly and by all. And this is as much to saye, that he is seised by euery parcell, and by all &c. and thys is true in euery parcell, and by eche parcell, and by all the landes and tenementes he is ioyntly seised with fellowes &c.

¶ And if two ioyntnants be seised of certeyn landes in fee simple, and that one letteth that that to hym belongethe to a straunger for terme of xl. yere and dyeth within the terme. In this case after hys decease the lessee may enter and occupy the halfe to him letten duringe the terme &c. though the lessee neuer had possession of it in the lyfe of the lessour by force of & lessee &c. And the diuersitie betweene the case of the graunt of a rent charge, & thys case is thys. For in the graunt of a rent charge by a ioyntenant the tenants abyde alway as they were alway without that, that any hath anye right to have parcell

parcel of the tenements, but themselves & the tenements abyde in such plyte as they were before the charge &c. But where a lease is made by a ioyntenant to another for terme of years &c. incontinent by force of the lease the lessee hath right in the same land, that is to say, of all that, & to his lessour belonged, & to haue that by force of the same lease during his terme &c. & this is the diuersitie &c.

¶ Also ioyntnants if they wil, may make partition betwene the, & the partition is good enough, but they shal not be compelled by y^e law to do it, but if they wil make partition of their proper will & agreement, the partition shall stand in his strength. D. 3. C. 4.

¶ Also, if a ioynt estate be made of lande to the husbände and the wife, and to the thyrde persone, in thys case the husband and the wife haue not in the lawe in their ryght but y^e halfe &c. And the thyrde persone shall haue as much as the husbände and the wife hath, that is to saye, the other halfe &c. And the cause is for that the husbände and the wyfe bee but one person in y^e law, & be in like case, as if estate be made to two ioyntnāts, where ech one hath by force of ioynture the one half, & the other y^e other half. In the same maner is wher estate is made to the husbände & the wyfe & to other two menne, in this case the husbände and the wyfe haue not but the thirde parte, and the other two men y^e other two parts &c. Causa quā supra. More shalbee saide of them touchynge

Tenants in common.

ioyntenauncye in the chapiter of tenauntes
common, tenant per Elegit, & tenaunt by ch
tute marchaunt.

Tenauntes in common. Ca 4.

Tenauntes in common bee they that ha
landes and tenements in fee simple, fee
or for terme of lyfe &c. which haue such land
and tenements by seuerall tytles, and not i
tytle, and non of them knowe that, that is
uerall to him. But they ought by the law
occupye suche landes and tenementes in co
mon, and vnderpyned to take the pꝛofytes
common. And because that they come to suc
landes and tenementes by seuerall tytles, a
not by one selfe ioynt tytles, and their occup
on & possession shalbe by the law to be am
them in common, they bee called tenauntes
common, as if a manne enfeoffe twoe ioynt
nants in fee, and the one of them alpeneth
that to him belongeth, to another in fee, now
the other ioyntenaunt and the alpene, bee
nants in common, for this that they bee
fed in suche tenementes by seuerall tytles,
the aliene cometh in the halfe by the feoff
ment of ioyntenaunte, and the other ioynt
naunt hath the other halfe by force of the
feoffement made to hym and to hys fyꝛste
lowe, and so they bee in by seuerall tytles,
by seuerall feoffements &c. And it is to w
that when it is said in any booke that a ma
is leysed in fee, without moꝛe saying, it shalbe
vnder

Tenants in common. Fo. 61

Understande fee simple, for it shal not bee vnderstand by suche woordes in fee, that a man is seised in fee taile, except that there be put thereto such addicion, that is to say, fee taile.

¶ Also, if thre tenants bee, and the one of them alieneth that, that to him belongeth to another in fee. In this case the aliene is tenant in common with the other two tenants. But yet the other two tenants be seised of the two parties ioyntly, & of these two parties the surauour betwene them holdeth place &c.

¶ Also if there be two tenants in fee, and the one geueth that, that vnto hym belongeth to another in the taile, the donee and the other tenants be tenants in common &c. But if the landes bee giuen to two men & to the heires of their two bodies engendred, the donees haue ioynt estate for terme of their lyues, and if eche of them haue issue and dye, their issues shal holde in common &c. But if landes bee geuen to two Abbottes, as to the Abbot of Westminster and to the Abbot of St Albons, to haue and to holde to them and to their successours, in this case they haue incontinent at the begynnyng, estate in common, and not ioynt estate. And the cause is for this, y^e euery Abbot or other soueraigne of an house of religion before that hee be made Abbot or soueraigne, was but a dead man in the lawe. And when he is made Abbot, he is as a man psonable in the law, all onely to purchase

Tenants in common.

chafe and to haue landes and tenementes and other thinges to the vse of his house and to his owne proper vse, as other secular man maye. And for this in the beginninge of the purchase they be tenauntes in common. And if the one of them dye, the Abbot that suruiveth shal not haue all by the suruivour but the succellour of the abbot that dyeth, shal holde halfe in common with the Abbott that suruiveth &c.

¶ Also if lands be geuen to an abbot & to a secular man to haue & to holde to them, & is to say, to the abbot & his succellours, & to the secular man, to him & to his heires, they haue estate in common, *Causa qua supra*.

¶ Also if lands be geuen to twoe men to haue & to holde, the one halfe to & one & to his heires and the other half to the other & to hys heires they be tenants in common &c.

¶ Also if a man scyled of certein landes feoffeth another in the halfe of the same land without anye speche or assignement or limitation of the same halfe in feueraltie at & time & feoffement, than the feoffee & the feoffor shal hold & parties of the land in common. And in the same maner as is aforesaid of tenants in common, of landes or teneintes in fee simple or for taile. In the same maner may it be said of tenants for terme of lyfe. As & two ioyntenauntes be in fee, & the one letteth to a man that, & to him belongeth for terme of lyfe, and the other ioyntenaunt letteth that, that to hym be

longer

Tenants in common. fo.62.

longeth to another for terme of lyfe, these two
lesses bee tenauntes in common for terme of
their lyues &c.

¶ Also if a mā let lands to two men for terme
of their liues, & the one graūterh all his estate
of that, that vnto him belongeth to another &c.
then that other tenant for terme of life, and hee
to whom the graunt is made be tenants in cō-
mon during the tyme y both lesses bee alyue.
¶ And it is to bee remembred that in all other
suche cases though they bee not here ex-
pressly named or specified, if they be in like rea-
son they bee in like lawe.

¶ Also there bee two ioyntenauntes in fee, and
the one letteth that, that vnto hym belongethe
to another for terme of lyfe duringe hys lyfe &
the other tenaunt that did not lette, be tenaun-
tes in common. And vpon this case a question
may ryle as this. But the case that the lessour
hath issue & dieth, leauing the other iointenant
hys felow, & liuing the tenant for terme of life,
the question may be such if the reuerſion of the
halfe &c. y the lessour hath, shal diſcende to the
issue of the lessour, or that y other ioyntenant
shall haue it by the ſurvivour. And some haue
sayde in thys case, that the other ioyntenaunte
shall haue the reuerſion by the ſurvivour, and
their reason is such, when the iointenārs were
jointly seyled in fee simple &c. though the one of
the made estate of y, that vnto him belongethe
for terme of life, & though that hee hath therof
franktenement of that, that to him belongethe
by

Tenantes in common.

by the lease, yet hee hathe not seuered the land
simple. But the fee simple abydethe to hye
iointely: as it was before. And so it seemeth
vnto them that the other ioynte tenaunt the
suruiuethe, shal haue the reuerſion by the sur-
uiuour &c. And other haue sayde the contrary
and this is theyr reason, when one of the ioynte
tenauntes letteth thys that to hym belongeth
to another for terme of hys lyfe, that by such
lease the franke tenement is seuered from the
iointure. And by the same reason the reuerſion
on that is dependaunt vnto the same franke
tenement is seuered from the iointure. Also
the lessour had reserued to him a yearely rent
vpon the lease, the lessour onely shal haue the
rent &c. The which is a prooue that the reuerſion
is onely in hym, and that the other hath
nothing in the reuerſion &c. Also if the tenaunt
for terme of lyfe were impleded &c. and made
default after default, than the lessour shalbe
only of thys receyued to defende his ryght, & by
felowhe in this case in no maner shalbe recey-
ued, whyche proueth that the reuerſion of the
halfe is onely in the lessour. And so by con-
sequens, if the lessour dye liuyng the lessee
for terme of lyfe the reuerſion shal discende to the
heires of the lessour &c. and not come to the
other ioyntenant by the suruiuour. *Adco quens*
But in this case if the ioyntenant that hath the
franktenement haue issue and dye, lyving the
lessour and the lessee, then it semeth that the
lessour shal haue the halfe in hys demesne as

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fee by discent for this that the franktenement maye not by nature of the iointure be annexed to a reuerſion &c. And it is certein that he that letteth, was seised of the halfe in his demesne as of fee, & none shal haue any iointure in hys franktenement. Ergo this shal discede to issues Sed quere. But if it be thus, & the lawe in this case is such, & if the lessour die leauing the lessee, & leauing the other iointenaunt that hath the franktenement of the other half, that the reuerſion shal descende to the issue of the lessour, then is the iointure and the title of any of them may haue by the suruiour by & right of the iointure adnulled & all utterly defeated for euer.

In the same maner it is of & iointenaunt & hath the franktenement ope, leauing & lessour & the lessee, if the law be such that his franktenement & fee that he hath in the halfe shal discede to his issue, then the iointure shalbe defeated for euer &c.

Also if thzee iointenaunts bee, & the one releaseth by his dedde to one of his felows al the right & he hath in & land, then hath he to whō the release is made the third part of the lands by force of the release, & hee & his felowe shal holde the other ii. partes ioinſly. And as to the third part & he hath by force of the release, hee holdeth the third part with him selfe, & his felow in common.

And it is to weete that sometime a dedde of release shal take effecte and shal bee in hys to put

Tenants in common.

put the estate of him y made the releas, to him to whom the releas is made, as in the case forsayde.

¶ And also if a ioint estat be made to the husband and his wife, and to a thirde parson, and y third person releaseth his right that he hath ec. to the husband, then hath the husbunde the halfe that the thirde parson had, and the wife of this hath nothinge. And if in such case the thirde releas ec. to the wyfe not naminge the husbunde in the releas, then hath the wife the halfe that the thirde parson had. And the husbunde had nothinge of this, but in right of his wife. for this that in such case the releas shal enure to put the estate to him to whom the releas is made of all that, that belonged to him that made the releas ec. And in some case a releas shal enure to put al the right that he hath that made the releas to him, to whom the releas is made. As a manne seysed of certayn landes and tenementes, is disseysed by two disseisours, if the disseys by his deede releaseth all hys ryghts ec. to one of the disseisours, then hee to whom the releas is made, shal haue and holde all the tenementes to him onelye, and put oute hys fellowe of euery occupation of it. And the cause is for this that the two disseisours were seysed in the tenementes by wrong by them doone againste the lawe. And when one of them hath the releas of him that hadde right to enter ec. this right in such case resteth in him to whom the releas

Tenants in common. fo. 64

release is made, and is in suche plight as if hee that hadde the righte had entred and enscoffed him &c. And the cause is for this, that hee that hath before had an estate by wrong, that is to saie, by disseisin, now by the release hath a rightful estate.

¶ And in some case a release shall enure by way of extinguishment, & in such case such release shall helpe the ioyntenant to whom & release was not made, as well as him to whom the release is made. And if a man be disseised, & & disseisor maketh a scottemt to .ij. men in fee, if the disseisi release to one of the scotfours in fee by his dede, the such release shall enure to both the scotfecz for this that the scotfecz have estate by the lawe, & is to saie, by the scottemt & not by wrong done to any other.

¶ And in the same maner is, if the disseisor make a lease to a manne for terme of lyfe, the remainder ouer to another in fee, if the disseisi release to the tenaunt for terme of life all his right &c. This release enureth as well to him in & remainder as to the tenat for term of life &c. And the cause is for this, & tenat for terme of life cometh to his estate by the course of the law. And for this the release shall enure & take effect by waye of extinguishment of the righte of him & hath released &c. And by this release the tenant for terme of life hath no greater estate then hee had before the release made vnto hym, & the right of him that released is all utterly extynct. And in so muche that suche release

Tenants in common.

release cannot enlarge the state of the tenant for terme of lyfe, it is reason that the release shall enure to him in the remainder &c. Whiche shall be sayde of releases in the Chapter of release.

Also if there bee two parceners, and one alieneth that & vnto him belögeth to another, then the other parcener and the alienor are tenants in common.

Also tenants in common may bee by prescription, if the one and hys auncestors or they whose estate he hath in the halfe, be holden in common, the same halfe with the other tenant that hath the other halfe, and his auncestors, or them whose estate he hath as vnderded fro time whereof noe memory runneth. And diuers other maners may make a cause men to be tenants in common & not here expressed.

Also, in some case tenants in common ought to haue of their possession seuerall actions, and in some cases they shal ioine in one action. For if there bee two tenants in common, and they bee disseised, they ought to haue against the disseisor two assises, & not one assise, for every of them ought to haue an assise of his halfe &c. & the cause is for this, & tenants in common were seyled by seuerall titles, but otherwise is of iointtenants. For if there bee .xx. iointtenants & they be disseised, they shal haue in their names but one assise, because that they had but one ioint title.

C

Tenaunts in common. fo.65

Also if there be three ioyntenantes, and one releaseth to one of his fellows all the right that he hath, and after the other two be disseised of the whole &c. in this case the other shall haue seuerall assises in this fourme, & is to say they shall haue in both theire names one assise of the two partes &c. for this that they helde the two partes ioyntlye at the time of the disseisine. And as to the thyrde parte, he to whom the releafe was made, oughte to haue thereof an assise in hys owne name, for thys that as to the thirde parte hee is tenaunt in common for this that he came to the thirde parte by force of the releafe and not onelye by force of & ioynture.

Also, as to sue actions that toucheth the copartie, there is diuerse litle betwene parceners that bee in by diuers discentes; and tenaunt in common. For if a manne seised of certeyne landes in fee, haue issue two daughters and he, and they enter &c. and eche of them hath issue a sonne and dye without partition made betwene them, by which the one halfe dyscendeth to the sonne of the one parcener, and the other halfe descendeth to the sonne of the other parcener, and they enter and occupie in common be disseised, in this case they shall haue their two names one assise and not two assises. And the cause is, that though they come by diuers discentes &c. yet they be parceners, & by participatione facienda lieth betwene them. And they be not parceners hauinge regarde

Tenauntes in common.

or respect onely to the scisin & possession in their mother, but they bee parceners haue moze respect to the estate that descended to their graundfather to their mothers. For they maye not bee parceners where their mothers were not parceners befoze &c.

¶ And so to such respect and consideration is to wete, as to the firste discent that was to their mothers they haue a tytyle in parcenership the which maketh them parceners. And if they be but as one heire to their cōmon ancestor, that is to say, to their graundfather in whom the land descended to their mothers. And for these cases befoze p̄ciō betwene &c. they shoulde haue one assise though they come in by seuerall discents &c.

¶ Also, if there be two tenants in common certein landes in fee, and they gaue the land to another man in the taile, or let it to another man for terme of lyfe, yeldyng an annuall itie or certein rent, and a pound of peper or hawke, or an hōrse, & then bene seysed of the seruyces and after all the rent is behynde they distrayne for it, and the tenaunt make them rescous.

¶ In that case as to the Rente and pounde of peper, they shall haue two assises and as to the hawke and the hōrse but one assise, and the cause why they haue two assises as to the Rente and pounde of peper, theys, in so muche that they were tenants in common by seuerall tytles, and when they

Tenaunts in common. fo.66

made a gyfte in the taile, or lease for terme of
yfe &c. saving to them the reuerſion & yeldyng
to them certein rent &c. Such reſeruacion is
incident to their reuerſion.

¶ And for this that their reuerſion is in com=
mon and by ſeuerrall tytles, as their poſſeſſion
was befoze their rent, and other thynges that
may be ſeuered and ſwere to them reſerued by
on the gift or vpon the leaſe whiche bee inci=
dent by the law to the reuerſion, ſuch thynges
ſeuered was of the nature of the reuerſion,
whiche reuerſion is to them in common by ſe=
uerrall tytles. And it bechoueth that the rent of
the pound of peper whiche may bee ſeuered is
to them in common by ſeuerrall tytles. And of
this they ſhall haue two aſſiſes, & euey of the
hys aſſiſe ſhall make his plaint of the halfe
of the rent and of the halfe ponde of the pe=
per. &c.

¶ But of the hawke and the horſe whiche can
not bee ſeuered, they ſhall haue but one aſſyſe
or a man may not make a plaint in aſſiſe of the
half of an hawke or of the half of an horſe &c.
In the ſame maner it is of other rentes & ſer=
uices that tenaunts in common haue in groſſe
or dyuers tytles.

¶ Also as to actions perſonelles, tenauntes
in common ought to haue ſuche actions perſo=
nells toynthe in all their names, that is to ſaye
Trespas or of offence that touche theyre
tenauntes in common. As of breakyng of
their howſes, breakyng of theyre cloſes and

J.ii. pastures

Tenauntes in common.

pastures, walling & defoulyng of their ground cutting of their wood, & to fish in their ponds & such other. In this case tenants in common shall haue one action ioyntly and recouer only damages because y^e the action is in the personaltie & not in the realtie.

¶ Also if two tenauntes in common make lease of their two tenementes to another for terme of yerres yelding vnto them percellaune treine rent if the rent be behynd &c. the tenants shall haue one action of det againste the lessee not dyuers actions, for that the action is in personaltie.

¶ Also tenauntes in common may make partition betweene them if they wil, though they shall not bee compelled by the lawe. But they may make partition betweene them by their agreement and assent, such partition is good enough, as it is adiuged in the booke of 3 P. 3. C. 4.

¶ Also as there be tenants in common in landes or tenementes &c. as is aforesaid, in the same maner there be possessions & properties of chattell real & chattel personall. As if lease be made of certain landes to two men for terme of xx. yerres, and when they be divided of possessed, the one of y^e leases granteth the same y^e vnto him belongeth beefore y^e terme to another, then hee to whome the graunt is made the other shall holde & occupy in common.

¶ Also if two ioyntenants haue the whole of the body & of the landes of the chyld with

Tenants in common. fo.67.

age and that one of them graunteth to another
that, that vnto him belōgeth of the same ward
then the graūtee, and the other that graūtee he
not, shall haue and holde it in common &c.

In the same maner it is of chattels perso-
nals as if two haue a ioynte estate by gylte, or
by bynge of an horse or an Oxe &c. the one of
them graunteth that, that to hym belongeth of
the same horse or oxe &c. Then the graunt and
that graunted not shall haue and possesse su-
ch the chattel parsonel in commō &c. And in suche
cases wher diuers persons haue chattels reals
or parsonels in common and by diuers tytles,
the one of them dye, the other that suruiuethe
shall not haue that by the suruyuour. But the
executors of hym that dyeth shall holde and
occupy that with him that suruiuethe as their
estatour dyd, or oughte in hys lyfe &c. for this
that theyr titles and ryghte in thys case were
verrall.

Also in this case aforesayde if two haue
estate in common for terme of yeres, & the one
occupy all, and put the other out of hys posses-
sion and occupacion, then shall hee that is put
out of occupacion haue agaynst that other a
writ de Electione firme for the halfe agaynst
the other. In the same maner it is where two
haue the warde of landes or tenementes du-
ring the nonage of a chyld, if one put out the
other of his possession, he that is out shall haue
a writte of Electement de garde of the halfe,
if thys that those thynges be chattels reals,

Tenantes in common.

and may bee appozcioned and seuered &c. For
no such actiō of trespas, that is to say. *Qui
clausum suum fregit & herbam suam concu
uit & consumpsit &c.* And such like actions
one maye not haue agaynst the other, for
that eche of them may enter and occupy in
mon &c. throughe and by all the tenement
whyche they holde in common. But if two
possessed of chatels personels in common by
uers titles, as of an horse, or an ox, or a be
if the one take it all to himselfe oute of the
session of the other, the other hath none
remedy but to take this of hym that hath
to hym the wronge for to occupye in com
when hee may see his time.

In the same maner it is of chattel real
may not bee seuered as the case aforesayd
bee possessioners of a warde of the bodie
childe within age, if one take the childe
the possession of the other, the other hath
remedy by any action by the lawe, but to
the childe out of the others possession wh
seeth hys time &c.

Also when a man in pleadyng shew
deede of feoffement made vnto hym, or a
in the taylor, or a lease for terme of lyfe of
landes or tencements, there he shall say by
of which feoffement, gifte or lease he was
sed &c.

But wher a mā will plede a lease or a
made vnto him of a chatel real or personel
he shall say per force of which he was poss

Estate vpon a condicion. fo. 68

Howe shalbe said of tenants in common in þ
chapter of Releases, Confirmaciōs, & tenāts
et Elegit.

¶ Estates vpon a condicion. cap. v.

¶ Estates þ men haue in lands oꝝ tenements
be i two maners. That is to say, they haue
estate vpon condicion in dede, oꝝ vpon condi-
cion in lawe. Upon condicion in dede, is as a
man by dede endēted enfeoffeth another in fee
reseruing to him and to his heirs yerely a cer-
tain rent payable at one feast oꝝ at diuers feasts
by yere, vpon condicion þ if the rent be be-
hind &c. that it shalbe lawfull to the feoffour &
his heires to enter into the landes oꝝ tene-
ments &c.

¶ Oꝝ if the landes be aliened to another in fee
paye vnto him certain rent &c. And yf it
ap that the rent bee behinde by a weeke after
any daye of payment of it, oꝝ by a moneth, oꝝ
by halfe a yere after any day of payment, that
then it shalbe lawfull to þ feoffour and to his
heires to enter &c.

¶ In thys case if the rent bee not payde at
such a time oꝝ befoze suche a time limited and
specified within the condicion comprised in þ
venture, the may þ feoffour oꝝ his heirs en-
ter into such landes oꝝ tenements, & the in hys
estate to haue and to holde, and of thys
patte the feoffee cleane oute, and it is cal-
led estate vpon condicion, for thys that the
estate

Estate vpon a condicion.

estate of the feoffee is defensible if the condicion be not perfozmed.

In the same maner it is if landes be given in the taile, or let for terme of lyfe, or for terme of yerres, vpon suche condicion &c. But whan a feoffement is made of certeine landes, reseruing certein rent vpon suche condicion, that if the rent be behinde, that it shalbe lawefull to the feoffour and to his heires to enter, and the lande to holde till they be satisfied or payde of their rente behinde &c. In this case, if the rent be behinde, and the feoffoure and his heires enter, the feoffee is not excluded cleane out. But the feoffour shall haue and hold the lande and take the profites tyll that hee be satisfied of the rente behinde. And when he is satisfied the feoffee may reenter in the same lande and holde it as hee did before, for in suche case the feoffour shall haue it, but in manner for a distresse in the mean time, til he be satisfied of the rent &c. though he take the profits in the mean time.

Also diuers woordes among other they be, by vertue of themselves make estate vpon condicion. One is this worde of condicion, **A.** enfeoffeth **B.** of certaine lande to haue and holde to the same **B.** and hys heires vpon condicion that the same **B.** and his heires shal pay or doe to be payde to the foresaide **A.** to his heires percelly such rent &c. In these cases withoute any more saying the feoffee hath estate vpon condicion. Also if the condicion be

Estate vpon a condicion. fo. 69

suche. Provided alswaye that the aforesayde
B. paye or doe to bee payde to the aforesayde
B. suche rente. Or if they were thus, so that
the aforesayde B. paye or doe to be payd such
rente. In these cases withoute anie more say-
inge, the feoffor hathe estate but vpon con-
dicion, so that if hee performe not the condi-
cion, the feoffor and his heires maye en-
ter &c.

Also other woordes there bee in a dede that
causeth the tenauntes to bee condicionels, as
vpon such a feoffment a rente is reserued to
the feoffor &c. and after it is put in dede that
if it chaunce the aforesayde rent to be behinde
in parte or in all &c. that then it shalbe lawfull
to the feoffor and to his heires to enter. And
this is a dede vpon a condicion. But there is
diuersitie betwene the woordes if it chaunce,
&c. and the woordes nexte aforesayde. For this
woorde if it chaunce &c. is noughte woorth to
suche condicion, but if it haue these woordes
following, that is to say, that it shalbe lawfull
to the feoffor & to his heires to enter &c. But
in these cases aforesaid, it nedeth not by \bar{y} law
to put such clause, that is to saye, \bar{y} the feoffor
and his heires may enter &c. for this is that they
may so doe by force of the woordes aforesaid,
because that they conceyue in themselves in the
law a condicion, that is to say, that the feoffor
and his heires may enter, yet it is commonly
in al such cases aforesaid, to put such clauses
in the deedes, that is to saye, if the rent be be-
hynde

Estate vpon a condicion.

behinde &c. & it shalbe lawefull to the same lessour and his heires to enter &c. And this is well done to that entent for to declare and expresse to the lay men that be not learned in the law, the maner and the condicion of the feoffment, &c. As a man seyled of land as of free tenement, let the same land to another by deed endeted for terme of yeres, yelding vnto hym certayne rent, it is vsed to put in the dede, & the rent be behinde at the daye of payment by a moneth &c. That the it shalbe lawefull to the lessour to distreine &c. and yet the lessour may distreine of common right for the rent behinde &c. though such woordes neuer were set in the dede &c.

¶ Also if any feoffment be made vpon such condicion, that if our feoffour pay at a certayne daye &c. xx li. of money, that then the feoffment may enter &c. In this case the feoffee is called tenant in mortgagage, that is as muche to say in frenche as mortgagage, & in latine mortuum dedum, & in English a dead pledge. And it is called so for the cause whye it is called mortgagage, is for & it standeth in doubt if the feoffour may pay at the day limited suche a summe or not, & if he paye not, then the land & is put in pledge vpon condicion for the payment of the money is gone from hym for euer, & so dead as to the tenant &c.

¶ Also as a man may make a feoffment in fee in mortgagage, so may a man make a gifte of the taylor in mortgagage; and a lease for terme

Estate vpon a condicion. 70.

of life or for terme of yeares in mortgage. And
all suche tenauntes bee tenauntes in mortga=
ge, after the state that they haue in the landes,
etc.

¶ Also if a feoffment be made in mortgage
vpon condicion that the feoffour shall pay such
a summe at suche a day &c. as is betwene the nu=
mer by theyr dedde, ended, accorded and limited
though the feoffour dye before the day of pay=
ment &c. yet if the heire of the feoffour pay the
same summe within the daye to the feoffee, or
offer him the money, and the feoffee refuseth
to receyue it, then may the heire enter into the
lands. And yet the condicion is, if the feoffour
pay such a summe at such a day &c. & not ma=
king mencion in the condicion of any payment
to bee made by hys heire, but for this that the
heire hath the interest of ryghte in the condicion
et. and the intente was but that the moneye
should be payd at the day set &c. and the feoffee
hath no more damage to be payd by the heire
then though he were payd by the father &c.
for this cause if the heire paye the moneye or
tendeth the money at the day sette &c. and the
other refuseth it, hee may well enter. But yf a
straunger of hys owne heade that hath no in=
terest &c. would tende and pay the money at the
daye set, then the feoffee is not bounde to recei=
ue it &c.

¶ And it is to bee had in mynde that in such
case where such lawefull tender of the moneye
is

Estate vpon a condicion.

is made and the feoffour refuseth to receiue, wherefore the feoffour or his heires doe enter &c. then the feoffee hath no remedy to haue the money by the common lawe, for this y^e it shal bee rected his owne follie that hee refused the money when lawfull profer was made of it to him &c.

Also, if a feoffement be made in suche condicion, that if the feoffee pay to the feoffoure at suche a day betwene them limited xx. lib. that then the feoffe shal haue the lande to him or his heires, and yf hee faile to paye the money at the day &c. that then it shalbe lawfull to the feoffour or to his heires to enter &c. and if after before the day set, the feoffe selleth the lande to an other, and therof maketh a feoffement vpon hym, in this case if the second feoffe will tender the summe of hys money at the daye set to the feoffour, and the feoffour refuseth it, &c. then hath the seconde feoffe estate in the land clerke without condicion. And the cause is for that the second feoffee had interest in the condicion for saluacion of his tenauncy. And in this case it seemeth that if the fyrst feoffe after such sale of the land will tender the money at the day set to the feoffour, that shal bee good enough for saluacion of the estate of the second feoffee, in thys that the first feoffee was priuy to the condicio, and so the tender of anye of them is good enough. &c.

Also if y^e feoffement be made vpon condicion that if y^e feoffour pay a certayn sūme of money

Estate vppon a condicion. fo. 71

to the feoffee, & then it shalbee lawfull to the feoffour and to his heires to enter &c. In this case if the feoffour dye before the daye of paymente, and the heire will tender to the feoffee the money, such tender is voyde, for this that the time within which the tender ought to be made is past. For when the condicion is, that if the feoffour pay the money to & feoffee, this is as much to say, that if the feoffour duringe his life paye the money to the feoffee &c. And when the feoffour dyeth, then the tyme of the tender is past. But otherwise it is, wher a day of payment is limited, and the feoffour dieth before & day then may the heire tender the money as it is aforesaide, for this at the tyme of the tender was not past by the death of the feoffour. Also it seemeth in suche case where the feoffour dyeth before & day of payment if & executours of the feoffour tender the money of & feoffee at & day of payment, the tender is good ynough. And if the feoffee refuse this, & heires of the feoffour may enter &c. And the cause ys for this that the executours represent the person of their testator &c. And note well that all such cases of condicion of payment of certeine summe in grosse, touching lands or tenementes if lawfull tender be once refused, he & ought to pay the money is therof alloyed and cleerlye discharged for euer after.

Also if the feoffee in mortgage before & day of paimt that shalbe made vnto him make his executours & dye, & his heires entreth into & land
as

Estate vppon a condicion.

as hee ought. It seemeth in this case y^e the
offour ought to pay the money at y^e daye let
the executours, & not to the heire of the feoffor
for this that y^e money at the beginning bein
ged to the feoffee in maner as a duetie. I
shalbe vnderstand that y^e estate was made
cause of borowing of the money of y^e feoffee
because of another duetie. And for this y^e pay
ment shal not be made to y^e heire of the feoffor
as it seemeth. But the words of the condicion
may be such, that y^e payment shalbe made to
the heire as if y^e condicion were that y^e feoffor
pay to the feoffee or to his heirs such a summe
at such a daye &c. There after the death of the
feoffee if he dye before the daye limitted, then
the payment ought to be made to the heire
the day set &c.

¶ Also in such case of a feoffment in mortgage
a question hath ben demaunded in what place
the feoffour is bounde to tender y^e money to
feoffee at the day set &c. And some haue sayde
that vpon the lande so holden in mortgage
this that the condicion is dependant vpon the
land, and they haue sayde y^e if the feoffour be
ready vpon the land to paye the money at the
feast or day sett, and the feoffee bee not at the
tyme there, that then the feoffour is excused
& discharged of payment of the money, for that
y^e no default was in him, but it seemeth to some
men y^e the law is contrary, & y^e default is in the
feoffor. For he is bound to seeke the feoffee if he be
at any time in any maner of place, wythin the
realm

Estate vppon a condicion. fo. 72

realme of England. As if a man be bounde in
an obligation of xx. li. vpon condicion endorſed
vpon the obligation, that if hee pay to hym to
whome the obligation is made at ſuch a day &c.
that then the obligation of xx. li. ſhal loſe his
force and ſhalbe holden ſoz naught. In this
caſe it behoueth him ⁊ made the obligation to
ſeek him to whome the obligation is made, if
he be within England, & at the day ſet, to re-
ſtore to him the ſaide xx. li. &c. And otherwiſe hee
forfeiteth the ſumme of xx. li. comprized wyth-
in the obligation, and ſo it ſcemeth in the other
caſe &c. And though that ſome haue ſayd that
the condicion is dependant vpon the lande, yet
this is not proued ⁊ the reſaunce of the condi-
tion to be perfourmed ought to be made vpon
the land &c. No more then if the condicio were
that the feoffour ſhould do at ſuche a day &c.
an especiall corpozall ſeruiſe to the feoffee not
naming the place where the corpozall ſeruiſes
ſhould be done. In this caſe the feoffor ought
to do ſuch corpozall ſeruyce at the day limited
to the feoffe in whatſoeuer place in Englande
that the feoffee bee if he will haue aduauntage
of the condicion &c. And ſo it ſcemeth in that
other caſe. And it ſcemeth to them that it ſhal
be more properlye ſayde that the eſtate of the
feoffee is dependant vpon the condicion &c.
whiche is as muche to ſaye, that the condici-
on is dependant vpon the ſayde &c. but en-
dore &c.

But if a feoffement in fee bee made, reſer-
uynge

Estate vppon a condicion.

ning to the feoffour an annuel rent, and for
faut of payment, a reentre &c. in this case it
beth not to the tenant to tender the rent
it is behynde, but onely vppon the lande,
this that this is a rent going out of the lande
for this is rent secke. For if the feoffour
once seyled of thys rent, and after hee comes
vpon the lande &c. and the rent is denyed
&c. he may haue an assise of nouel disseisin,
though he may enter beccause of the condicion
broken, yet he may choose, that is to say, to
enter or to haue an assise. And so is there diu
tie as to the tender of the rente that ys g
out of the land, and of tender of another
in grosse which is not going out of anye land
And therefore it shalbe sure and a good thyn
for them that will make suche feoffement
mortgage, to put and set a special place wher
the money shalbe payde. And the moze spec
all that it is put, the better it is for the feoff
As if A. enfeoffed B. to haue to hym and
his heires vppon suche condicion, that if B.
pay to B. in the feaste of Saint Michaell
archangell next coming in y cathedral church
of S. Paule of London, within 4. hours
before the howre of noone of the same feast
y roode loft of the Northdoore within y same
church or anye other certein place wythin
same church, that then it shalbe lawfull to
foresaide B. and to his heires to enter &c.
In suche case it needeth not to seeke the feoff
anye other place, but in the place comp

In the indenture nor to bee there moze longer ti-
me then the tyme specified in the same indentu-
re, for to render or paye the money to § feoffee.
Also in suche case where the place of paye-
ment is limite, the feoffee is not bounde to re-
ceiue the payment in none other place, but in §
place so limited. But yet if he receiue the pay-
ment in anye other place, this is good ynough
and as strong for the f. offour, as if the resceit
had be in the place so limited &c.

Also in this case of feoffement in mortgage,
the feoffour pay the feoffee an horse or a cup
of siluer, or a ring of golde, or anye other suche
thing in full satisfaction of the money, and the
other this receiueth, this ys good ynough, and
as strong as if hee had receiued the summe of
money, though the horse, or anye of the other
things bee not the twentye parte worth in
value of the summe of money, for thys that the
other hath accepted it in playn and full satisfac-
tion.

Also if a man enfeoffe an other in fee vppon
condicion that hee and his heires shall yelde
a straunger and his heires a yearelye rente
xx.s. and if hee and his heires sayle of paye-
ment of this, that then it shalbee lefull to the
feoffour and to hys heires to enter, thys ys a
good condicion. And yet in thys case thoughe
the a yearely rent bee called an annuel rent,
this is not properly a rent, for if it shalbe rent,
it ought to bee rent seruice, rēt charge, or rente
in fee, yet it is none of them, for if the straun-

It. i.

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ger were leased of this & after it were to be denied, hee shall neuer haue assise of this, but this that it issueth not out of anye landes, so the straunger hath no remedy if anye pccrely payement bee had behynde in thys case but that the feoffour and his heires may sue for it. And yet if the feoffour and his heires sue for default of payement. then suche rent is gone for euer. And so suche rent is but a payment set to the tenaunt and to his heires, if they will not pay thys after the fourme of indenture that theye shall lease their lande the entyre of the feoffour or his heires for default of payment. And in this case it seemeth that the feoffee and his heires oughte to seeke the straungers and his heires if they bee in Englande, because that no place is limited for the payement shalbee made, and because such rent is not goyng out of any land &c.

¶ And here note well ij. things, one is that no rent that is properly sayde rent may be reserved vppon anye feoffement, gift or lease only to the feoffour or to the lessour, or to the heires & in no maner maye bee reserved to a strange person. But if ij. ioynterartes make a lease by deede indented, reseruing to the one of them a pccrely rente, that is good ynough to the one to whome the rent is reserved, for this is in pruuie to the lease and not a stranger to it &c. The second thing is, that no entyre rente which is all one, may be reserved nor payed to anye persone, but onely to the feoffour

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to the donour or to the lessour, or to theyre
 etres, and such entre may not be alpyened nor
 raunted to any pson. For if a man let lads to
 nother for terme of life by indenture, yeldyng
 y lessour & to his heires a certein rent, & for
 want of payement a recentre &c. if after y lessor
 a dede graunt the reuerfion of the lande to
 nother in fee, & the tenant for terme of life at=
 yneth &c. if the rent after be behynd y gran=
 of the reuerfion may distraine for the rent,
 y this y the rent is incident to the reuerfio,
 he may not enter into the lande & put out
 the tenant as the lessour myght or his heyres
 the reuerfion had ben continued in them &c.
 and in this case the entre is taken away at al
 mes, for the grauntee of the reuerfion maye
 not enter *Causa qua supra*. And y lessour nor
 his heires may not enter, for if the lessour may
 enter, then he ought to bee in his firste estate
 and that may not be, for this that hee hath
 in him the reuerfion &c.

¶ Also if there be lord and tenaunt, and the
 tant make such a lease for terme of lyfe, yel=
 ng to the lessour & to his heires such yerelpe
 nt, and for default of payement a recentre &c.
 after the lessour dye wythout heire, during
 estate of the tenant for tearme of lyfe, by
 y the reuerfion cometh to the Lord
 waye of eschete, and after the rent of the
 tant for terme of lyfe ys behynde, the lord
 y distraine the tenant for the rent behynd,
 hee may not enter into the land by force of

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the condicion &c. for this that hee is not bound to the feoffour &c.

¶ Also if land be granted to a man for term of yerres vppon a condicion, that if he pay the grauntour within two yerres xl. markes, then he shall haue the lande to him and to his heires &c. In this case, if the grauntee enter by force of the graunt, & after he payeth to the grauntour xl. markes within the ii. yerres yet hee haue nothing in the lande but for terme of the ii. yerres for this the no liuery of seisin was to him made at the beginning, for if he had had franktenement & fee in this case because hee hath performed the condicion, then should he haue franktenement by force of the first graunt where liuery of seisin was made therof, which should be againste reason &c. But if the grauntour made liuery of seisin to the grauntee by force of the graunt, then hath the grantee the franktenement & the fee vppon the same condicion.

¶ Also if landes bee granted to a man for terme of fyue yerres, vppon condicion that he paye to the grauntour within the first two yerres xl. markes, that then he shall haue the lande but for terme of the fyue yerres, and liuery of seisin is made to hym by force of the graunt. Now he hath in fee simple condicionel estate, in this case the grauntee pay not to the grauntour the xl. markes within the same two yerres then immediatly after the same two yerres, the fee and the franktenement is and shall be adiudged to the grauntour, for this that the

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grauntour may not after the two yerres incon-
ment enter vpon the grauntee, for this that
the grauntee hath yet tittle by three yeaeres to
haue and to occupie the land by force of y same
graunt. And so for this, that the condicion of
parte of the graunte is broken and the graun-
tour may not enter, the law shal put the see in
franktenement in the grauntour. For if y gra
tour in this case made waste then after the
speaking of the condicion &c. and after the two
yeeres the grauntour shall haue his writte of
waste, and this is a good prooffe that the reuer
sion is to him &c. But in suche case of feoffe-
mentes bypon condicion where the feoffour
maye enter lawfully for the condicion broken
&c. There y feoffour hathe the franktenement
befoze the entre &c.

Also if a feoffment bee made bypon suche
condicion y the feoffee shall geue the land to
the feoffour, and to the wyfe of the feoffour,
to haue and to holde to them and to the heires
of theire twoo bodies engendred, and for de-
saute of suche issue, to remayne to the righte
heires of the feoffour. In this case if the hus-
bande die, liuinge the wyfe befoze estate in the
taille made to him, then oughte the feoffee by
the lawe to make estate to the wyfe, as lyke
to the condicion, and as like to the entent of
the condicion as hee maye make it, that is to
saye, to let the lande to the wyfe for terme of
yyle withoute impechement of waste, the re-
mainder after her decease to the heires engen-

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died of the body of her husbände & hers, in default of such issue, the remainder to the heirs of the husband.

¶ And the cause why & lease shalbee made in this case to the woman sole wout impechment of waile is for this & the condicion is, that the state shalbe made to the husband & his heirs in the taile. And if such estate had be made in the life of the husband then after & death of her husband, she had estate in the taile sole, which estate is without impechment of waile, & for this reason & if after a man may make estate to the intent of the condicion &c. & he shal make it though that she cannot haue estate in the taile as she might haue had, if the gifte in the taile had be made to the husband, & to her in the taile of her husband &c.

¶ Also in this case if & husband & & wife haue issue & die before the gifte in the taile made to him &c. then ought the feoffee to make estate to the issue & to the heirs of the father & mother engendred, & for default of such issue &c. the remainder to the right heirs of the husband. And the same law is in other cases semblaible. And if such a feoffor wil not make such estate when he is reasonably requyred by them they ought to haue estate by force of & condicion. Then may the feoffour & his heirs enter.

¶ Also if a feoffement bee made vpon condicion that the feoffee shal enfeoffe many to haue and to holde, to them and to their heirs for euer, and all they that ought

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haue estate, die before any estate made vnto the, then ought the feoffee to make the estate to the heirs of him & suruiue of the to haue, & to hold to him, and the heirs of him that suruiued &c.

¶ Also if a feoffment bee made vpon condicion to enfeoffe an other, or to geue in the tale to an other &c. if the feoffee before the performing of the condicion enfeoffe a straunge person, or make a lease for terme of life, then may the feoffour or his heirs enter &c. for thys, that hee hath disabled hym selfe to performe the condicion, in so muche that hee made estate to an other &c. In suche maner it is, if the feoffee before the condicion performed, let the same land to a stranger for terme of yeeres. In thys case the feoffour or his heirs maye entre &c. for this that the feoffee hath disabled hymselfe to make estate of the tenementes accordynge to that, that was in the tenementes when estate thereof was made vnto hym, for yf hee will make estate accordinge to the condicion &c. then maye the feoffee for terme of yeeres enter and put oute him to whome the estate is made &c. and to occupye thys during his terme. And many haue saide, that if suche a feoffment bee made to a man sole vppon the same condicion, and before that hee hath performed the condicion hee taketh a wife, then the feoffour or his heire may incontinent enter, for thys that hee hath made estate according to the condicion, and after dyeth, his wyfe shalbee endowd and may recover her dower by a wyte of

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power &c. And so by taking of a wyfe, the tenementes be put in other plyte then they were at the tyme of the feoffement vpon condicion; for this that no suche woman was dowable, nor should bee endowed by the lawe &c.

In the same maner it is, if the feoffour charge the lande by his dede of rente charge before performing of the condicion, or be bounde by statute staple, or statute marchaunt, that in such cases, the feoffour and his heires maye enter, *Causa qua supra*. For whosoener cometh to the tenements by the feoffement of the feoffour, then the tenementes muste bee lyable, and be put in execution by force of the statute aforesaide. But when the feoffour or his heires, by the cases aforesaid haue etred so as they ought as it seemeth &c. Then all such things that be fore suche entre maye trouble or encomber the tenements so geuen vpon condicion, as touching y same tenements be vtterly defeted.

¶ Also if a man make a dede of feoffement to an other, and in the dede is no condicion. And when the feoffoure will make to hym recovery of seisine by force of y same dede, he maketh livery of seysin vpon certein condicions &c. In this case nothing of the tenements passeth by the dede, for this y the condicion is not comprised in the dede, & the feoffement is of full force, as if no such dede had be made thereof.

¶ Also if a feoffement be made vpon such condicion, that the feoffee shall alien the lande to a man, this condicion is boide, for thys, that

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a man is enfeoffed in landes or tenementes, he hath power to aliene them to some person by the lawe. For if suche condicion shoulde bee good, then the condicion putteth hym oute of all the power that the lawe geueth, whiche shoulde bee againste reason, and for this, suche condicion is voyde. But yf the condicion bee such, that the feoffee shall not alien to one such naming his name, or to anye of his heires, or his issues &c. or such other lyke, the which condicion taketh not awaye all the power of alienation of the feoffee &c. than suche condicio ys good.

¶ Also if tenementes bee geuen in the taile, vpon suche condicion that the tenaunt in the taile, nor his heires &c. shall not aliene in fee nor in taile, nor for terme of others life, but for theyre owne lyues &c. suche alienation & condicion is good. And the cause is for this, that when hee maketh such alienacion and discontinuance, hee dooth contrary to the entent, for whych the statute of westminster the seconde was made, by whiche estatute, the estates in the taile bee ordayned, for it is proued by the wordes comprised in the same estatute, that the entent of the making of y^e same estatute was that the will of the donour in such cases shold bee obserued. And when tenant in y^e taile maketh such discontinuance, he dooth the contrarye to that &c. And also in estates in the taile of any tenementes when the reuerſion of y^e fee simple is in another pson whē such discontinuance

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once is made, then the fee simple in the remainder, or the fee simple in the remainder is discontinued, and for to put out that the tenant in the tail shall doo no such thing agaynst righte such condicions is good, as it is aforesaide &c.

¶ Also a man may geue land in the tail vpon suche condicion, that if the tenant in the tail or his heires aliene in fee, or in tail, or for terme of anothers lyfe &c. And also that if all the issues comynge of the tenant in the tail, be dead without issue, that then it shalbee left to the donoure and to his heires to enter &c. In by suche waye the righte of the tail maye be sau'd after such discontinuance to the issue in the tail if there bee any, so that by way of reuerſion of the donour or of his heires the tail shall not bee defeted by such condicion, & yet if the tenant in the tail in this case, or his heires make any discontinuance &c. he in the reuerſion or his heires after this the tail is determined for default of issue &c. may enter into the land by force of the same condicion, and shall not bee dyspuen to lose a writte of Forfeiture in the reuerſion.

¶ Also if a man may not pleade in any action that estate was made in fee, in the tail, or for terme of lyfe vpon condicion, but if he bounche a record therof, or shew a writing vnder seal prouyng the same condicion, for it is a common erudicion & lerning, & a man by pleading shall not defete any estate of franketennement by force of any such condicion, but if hee shew the proofe of such condicion in writing &c. except it be in charge

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Some especiall cause, but of chatels reals as of a lease made for terme of yeares, or of grantees of wordes made by wardens in chivalry, & of such other &c. A man maye plede & such giftes or grauntes were made vpon condicion &c. Without shewing of any wyting of condicion & in the same maner a man maye doe of giftes and grauntes of chatels personels and of contracts personels &c.

Also though that a man in some action may not plede an action that toucheth & concerneth franktenement without shewing of wytinge thereof, as it is aforesaide, yet a man maye be holpen vpon suche condicion by the verdyte of twelue men taken at large in a sise of disseisin, or in some other action where the iustices will take the verdyte of the twelue iurours at large. As put the case that a man seised of certaine land in fee, letteth the same lande for terme of lyfe, without deede vpon condicion to paye to the lessour a certeine rente, and for default of payement a reentre &c. by force of whiche, the lessour is seised as of franktenement & after the rent is behinde, by which the lessour entreth into the lande, & after the lessee obtaineth an assise of Nouel disseisin of y^e land against the lessour the which pleadeth that hee doth no wrong, ne no disseisin, & vpon this the assise is taken.

In this case the recognitours of the assise may say & paye to the iustices theire verdit at large vpon all the matter, as to saye that the
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Defendant was seised, & so seised, let the same land to the pleintif for terme of his life, to pay to the lessour such annuel rent payable at such a feast & vpon such condicion & if the rent be behind at any such feast & it ought to be paid, & then it shalbe lawfull to & lessour to enter &c. by force of which lease & pleintif was seised in his demesne, as of franktenement, & after the rent was behind at such a feast in suche a year &c. for which the lessour entred into the land vpon & possession of the lease, & paieth the discrecion of the iustices if this be a disseisin done to the pleintif or not. And then for this & yet appeareth to the iustices, & this was no disseisin done to the pleintife, in so much & the entred the lessour was lawfull vpon him, the iustices ought to geue indgement, & the pleintif shal take nothinge by his writ of assise. And so in such case the lessour shalbe holpe, & yet no writing was neuer made of the condicion, for as wel as the iurours may haue knowledge of the condicion & was declared & rehearsed vpon the lessee. In the same maner is of feoffment in fee, or in gift in the taile vpon condicion, though neuer writing were made thereof &c. And as it is saide of a verbite at large assise &c.

CIn this same maner it is of a writte of entry founded vpon disseisin, and in all other actions where the iustices wil take a verbite at large there where the verdit at large maketh & nature of the matter put in the issue.

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¶ Also in such where \S enquest may say their verdit at large, if they will take vppon the the knowledge of \S law vpon \S matter, they may say their verdit general as it is putt in theyze charge, as in \S case aforesaid they may wel say \S the lessor disseised not \S lessee if they wil &c.

¶ Also in the same case, if the case were suche that after this that the lessoure had entred for default of payment &c. that the lessee had entred vppon the lessour, and him disseised. In this case if the lessour arrayneth an assise agaynst the lessee, the lessee maye barre hym of his assise, for hee maye plede agaynst him in barre, howe the lessour that is plaintife made a lease to the defendaunt for terme of lyfe, sauynge \S reuersion of the plaintife, the whiche is a good plee in barre, in so muche that he knowlegeth the reuersion to bee to the plaintife, and in this case hath no matter to help hym, but the condicion made vpon the lease, and that hee maye not pledge, for that he hath no writing, and in so much that he may not aunswere to \S barre, he shalbe barred. And so in this case ye maye see that a man is seised and he shal haue no assise. And yet if the lessee be plaintife, and the lessour defendant, hee shall barre the lessee by verdyt of the assise. But in this case where \S lessee is defendaunt, if he wil not plede the sayd plee in barre, but pleade no wrong nor disseisin \S the lessour shal recover by assise &c. causa qua supra.

¶ Also because such condicions be most commonly

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monly put & specified in dedes indentured, some lytle thing shalbe saide heere to thee my some of indentures & of a dede poll cōtaining cōdicions. And it is to sweete & if the indenture be bipertite oz tripertite oz quadripartite, al & parties & the indenture be but one dede in & laie & euerye partie of the indenture is of him selfe of as great force & effect, as al & parties together. And & makinge of indentures is in two maners. One is to make them in the thirde person, an other maner is to make them in & first person. The making in the thirde pson, is as in such forme. This indenture made betwene J. of B. of the one partie, & C. of D. of the other partie, witnesseth that & foresaid J. of B. hath geuen & granted & by this present dede indented, hath cōfirmed to the foresaid C. of D. such land to haue & c. vpon & condicion & c. In witness wherof, & parties beforesaid interchaungably haue put to their seals, oz els thus. In witness wherof the one party of this indenture remaining is the said C. oz D. the foresaid J. of B. hath put to his scale, & to the other part of the said indenture remaining is the said J. of B. the saide C. of D. hath put to his scale geuen & c. Suche indentures is called indentures made in the thirde person for this that & verbes be in the thirde person & suche forme of indenture is & more sure making, for that it is more cōmonly vsed, the making of indentures in the first person is in such forme.

¶ To all true chryistian people to whome thys present

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present writing indented shall come A. of B. greting in our lord euerlasting. Knowe ye mee to haue geuen & granted, & by this my present dede indented to haue confirmed to C. of D. such lande &c. Wz els thus, know all men that bee present, & them y be to come, y J. A. of B. haue geue & granted, & by this my presēt dede indēted haue cōfirmed to C. of D. suche lande &c. to haue &c. vpon y condicion folowing. In witness whereof, aswell J. the saide A. of B. as y foresaide C. of D. to these indentures interchangeably haue put to oure scales, oꝝ elles thus. In witness whereof, to one parte of this indenture J. haue put to my scale, and to y o= ther parte of the same indenture the foresayde C. of D. hath put to his scale &c.

¶ And it seemeth that suche an indētūre made in the firste persone, is as good in y law as the indenture made in the thirde persone, whē both parties haue thereto put their scales, foz in the indētūre made in the thirde person oꝝ in the first person, if mencion be made that the grauntour hath set his seale onely, and not the grauntee, then is the indenture onelye the dede of the grauntour. But wher a mēcion is made that the grauntee hath set his seale to the indētūre &c then is the indenture as well the dede of y grauntour, as the dede of the grauntee, and thus it is the dede of both, and also euery party of the indētūre is the dede of both parties in suche case &c.

¶ Also yf estate bee made by indenture to a
man

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man for terme of his lyfe, the remainder to another in fee vppon condicions &c. and if the tenant for terme of life hath set his seale to the party of the indenture, and after dyeth and hee in the remainder &c. entreth by force of his remainder, in this case hee is holden to pfourme all the condicions comprised wythin the indenture as the tenant for terme of lyfe oughte to doo in his lyfe, and yet hee in the remainder neuer seased anye parcell of the indenture, but the cause is, that in so muche that hee entreth and agreeth to haue the land by force of the indenture hee is holden to persourne the condicion wythin the indenture if hee will haue the lande &c.

¶ Also if a feoffment bee made by dede poll vppon condicion &c. And for this that the condicion is not persourmed, the feoffour entreth and happeth the possession of the dede poll of the lessee bying an accion of that entre agaynst the feoffour, it hath been questioned yf the lessee maye plede the condicion &c. by the dede poll agaynst the feoffee, and soire haue sayd, nay, in so much that it seemeth vnto them that a dede poll, and the property of the same dede appertayneth to him to whome the dede ys made, and not to him that made the dede. And in so much that suche a dede appertaineth not to the feoffour, it seemeth to them that he may not plede this dede &c. And other haue sayd the contrary, and haue shewed dyuers causes. One is, if the case bee such that in y accion be

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swene them if the feoffee plede the same dede,
shew this to þe court. In this case in so much
the dede is in the court, þe feoffour may shew
to the court how in the dede be diuers condi-
tions to be perfourmed of the party of the se-
offe, & for this þe they be not perfourmed he en-
tered &c. & thereto he shalbe receiued by þe same
reason when the feoffour hath the dede in hād
sheweth it to the court he shalbe wel recey-
ued to plede of this &c. And namely when the
feoffour is priuy to the dede, for he ought to be
priuy to the dede, when he made the dede.

Also, if two menne make or do a tres-
passe to another, the whiche releaseth to one of
them by hys dede, all actions personels &c.
Notwithstanding hee sueth an action of tres-
passe against the other, the defendand may well
shewe that the Trespasse was doone by him
or another his felow, & that the plaiintif by the
dede that hee sheweth for the released to hys
felow al actions personels, and yet suche dede
apperteineth to his felowe and not vnto hym.
But for this þe he may haue aduantage by the
dede, if he may shew the dede to the court he
may wel pleade therefore by the same reaso in
the other case when then the feoffour ought to
haue aduantage by the condicion comprised in
the dede poll.

Also if þe feoffe gaue or grāted þe dede pol to
the feoffor, such grāt shalbe good, & the þe dede is
property of þe dede, apperteineth to the feoffor
and when the feoffour hath þe dede in hand, &
L. i. pledeth

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pledeth it to the court, it shalbe & moze vnderstande & he came to the dede by a lawfull mean then by a torcious mean, & so it semeth & the may wel plead such a dede poll, & cōprehēd condicion &c. if he haue the dede in hand &c. *Deo sēper quere de dubijs, quia p rationes pūtitur ad legitimā rationem,*

2 a? **E**states that men haue vpon condicion in the law be suche estates that haue a condicion in the law annexed to them, though it is not specified in wytyng, so as a man graunte by his dede to another the office of a Parke-shippe of a Parke, to haue and to occupie the same offyce for terme of his lyfe, the charge that hee hath in the office, is vpon condicion in the lawe, that is to say, that the Parke-shewe and truelve shall keepe the parke, and thys that to his offyce appertainethe to do, or otherwise, that it shall bee lawfull to grauntour and to his heires to put him out and to graunt that to another if hee wyll. And suche condicion as is vnderstand by the lawe to be annexed to some thing is as thys as if the condicion were set or put in wytyng. In the same maner it is of grauntes of offices of stewardes, constables, bedles baillifes, and other officers. But if suche office be graunted to a man to haue and to occupie by him or his deputie, then if the office bee occupied by him or by his deputie as it ought by the lawe to bee occupied, this suffisethe for him, or the grauntour or his heires may put him out.

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as it is aforesaid.

Also estates of lāds or teneūts may be vpon condicion in y^e law, though y^e vpon the estate made, there was no rehearsal made of y^e condicions, as put the case y^e a lease be made to y^e husband & his wife, to haue & to hold to them during y^e conuerture betwene thē, in this case they haue estate for terme of their two liues vpon condicion in the law, y^e is to say if one of them dye, or if diuorced be made betwene thē, y^e then it shalbe lawfull to the lessor & his heirs to enter &c. & y^e they haue estate for terme of their two liues it is proued this. Every man that hath estate or franktenement in any lands or tenements, either he hath estate in fee, or in fee tail, or for terme of life or for terme of anothers life, & yet by such lease they haue franktenement. But they haue not by that graunt fee nor tail, nor for terme of anothers life. Ergo they haue estate for terme of their two liues, but this is vpon condicion in y^e lawe in forme aforesaid. And in this case if they make wast y^e lessour shal haue against them a writ of wast, supposing by his writ. Quod tenent ad terminū vitæ &c. but in his plee, he shal declare howe & in what maner the lease was made, in the same manner it is if an abbot make a lease to a man to haue & to hold during the time that y^e lessour is abbot. In this case the lessee hath estate for terme of his owne life, but this is vpon condicion in lawe that is to say that yf the abbot dye, or resigne or be deposed, it shalbe lawfull

L. ij.

to

Estate vpon a condicion

to his successours to enter &c. Also a mā may see in the booke of assise. Anno. 38. E. 3. a plea of assise in this forme that ensueth, assise of novel disseisin was sometime broughte against one A. & pleaded te the assise, & was founde by verdit & the auncesker of & pleintif deuised the tenements to be sold by the defendaunt & was his executoz to make distribucion of & money for his soule, & it was found & a man after the deth of the testatoz rendered him certain sum of money for the tenements but not to the pain and & the executour after held the tenements in his owne hand by two yere to the intent to haue solde the tenements moze deerer to some other, and it was founde that hee had all the whyle after taken, the profitcs of the tenementes to his owne vse, wythout any thing doyng for the soule of the dead. Whombyas, the executour in suche case is holden by the law to make the sale as soone as hee may after the death of the testatour and it is found that he refused to make the sale & so the default was in him, and also by force of the deuise hee was holden to haue put all the profitcs of the said tenements to the vse of the dead, & it is founde that he hath taken them to his owne vse and so another default is in him wherefoze it was adiudged that the pleintife should recover. And so it appereth by the said iudgement that by force of the saide deuise the executoure had none estate nor power in the tenementes but vpon condicion in the law &c. And in such a

les it nedeth not to haue shewed any deede re=
 hearinge the condicions &c. *Ex paucis dictis*
intendere plurima possis. Whoe shalbe sayde
 of condicions in the Chapter of discentes that
 taketh a way enter, and in the chapter of rele=
 ses and in the chapter of discontinuance.

Discentes. Cap. vi.

Discentes that take a way entres, be in two
 maners, that is to say, where the dyscent is
 in fee or in fee taylor. Dyscent in fee that taketh
 a way enter is if a man seyled of certayn lands
 or tenementes is disseyled, and the disseylour
 hath yssue and dyeth of such estate. But nowe
 the tenementes discente to the issue of the dis=
 seylour by course of the law as heire vnto him.

And for thys that the lawe puttethe the
 lands or tenementes vpon the yssue, & the yssue
 cometh to the tenementes by course of y law
 and not by hys owne deede, the enter of y dis=
 seylour is taken awaye, and is thereof put to hys
 heire of enter vpon disseylour agaynst the heire
 of the disseylour to recouer the lande.

Discente in the taylor that takethe a waye
 enter, is if a man be disseyled, and the disseylour
 giveth the same lande to another in the taylor,
 and the tenaunte in the taylor hath yssue and
 dyeth seyled of such estate, and the issue entreteth
 in this case the enter of the disseylour is taken a=
 waye, and hee is putte to sue agaynst the issue
 of the tenaunt in the taylor a writte of enter b=

Discentes.

pondisseplin &c.

¶ And note well that in such discentes that take away entres it behouethe that a man dye seysed in his demesne, as in fee tayle, for dyng seised for terme of life or for terme of anothers life shall neuer take away the enter &c.

¶ Also a discent of reuerſion or of remaynder shal neuer take away enter &c. so þ in such cases that take away entres by force of discent it behoueth that hee that dyeth seysed haue he & frankteneiment at the tyme of hys dyng, or els such discent taketh not away enter.

Also as it is sayd of discentis þ discent to the issue of him that dieth seised &c. þ same law is wher they haue no issue, but þ tenements discent to þ brother or to the syster, or to the vncl or to some other colin of his þ dieth seysed &c.

¶ Also if there be Lord and tenant and the tenant be disseysed, & the disseisour alieneth to another in fee, & the alien dieth without heir, & the Lord entreteth as in his eschete. In this case the disseys may enter vpon the Lord in this that the Lord commeth not to the land by discent but by eschete.

¶ Also if a man seysed of certayne land in fee or in fee tayle vpon condicion to yelde certayne rent or vpon other condicio though that such tenant seised in fee or in fee tayle dye seised, per þ condicion bee broken in their life or after they decease &c. this taketh not away the enter of þ feoffor nor of the donoz or of theyre heires in this that the tenancy is charged with the con-

dition

dition and the estate of the tenancie is condici-
onel in whose hands so ever the tenauncy shal
come &c.

¶ Also, & if such a tenant bpō condiciō be dis-
seised & the disseisor dye therof seised, & h̄ land
descendeth to h̄ heire of h̄ disseisor, now the en-
tre of h̄ tenant bpō condicion h̄ was disseised,
is taken away, but if the condicion bee broken
&c. then may the scossoz or h̄ donoz h̄ made the
estate or their heires enter &c. causa qua supra

¶ Also if a disseisor dye seised, & his heires en-
ter &c. the which endoweth the wife of h̄ dis-
seisor of the thirde parte of the tenementes, in
this case as to h̄ thirde parte h̄ is assigned to h̄
wife in dower, incontinent anon after that h̄
wife entreth & hath possession of h̄ same thirde
parte, the disseisly may lawfully enter vpon h̄
possession of his wife in the same thirde part.
And the cause is for this, that when the wife
hath her dower, she shalbe audged rather im-
mediatly by her husbände & not by the heire, &
so as to the franketenement of the same thirde
parte, the discent is defeated, & so ye maye see
how befoze the dowermēt the disseisly might not
enter in any part &c. and after the dowermēt hee
may enter vpon the wife, & yet he may not en-
ter vpon the other two parties that h̄ heire of
the disseisour hath by discent &c.

¶ Also, if a woman be seised of lande in fee,
whereof I haue ryght and tyle to enter, if h̄
woman take an husbände and haue issue bee-
twene them, and after the wyfe dyeth seised,

L. iiii.

and

Discentes.

and after that the husband dyeth, & the issue entreteth &c. in this case I may enter vpon & possession of the issue, for this that the issue cometh not to & tenements immediatlye by descent after the death of his mother.

C Also if a disseisour enfeoffe his father, & the father entreteth & dyeth of suche estate seyled by which the tenements descend to the disseisour, as to the sonne & heire &c. In this case & by seysly may wel enter vpon the disseisour, notwithstanding the descent, for this, that as to & disseisin, the disseisour shalbe adiudged in, but as the disseisour, notwithstanding the descent.

C Also if a man seised of certeine landes in his demeane as of fee, hath issue twoe sonnes and dyeth, and the yonger sonne entreteth by habatement in the lande the whiche hath issue, & of thys dyeth seyled, and the tenementes descend to the issue, and the issue entreteth into & land, in this case the elder sonne or hys heires may enter by the lawe vpon the issue of the yonger sonne, notwithstanding the descent, for thys, that when the yonger sonne abated in the lande after the death of hys father before any entre of the elder, the lawe intendeth that hee entrethe in clayminge as heire vnto hys father, and for this that the elder brother claymeth by the same tytle, that is to saye, as heire vnto his father, hee and his heires may enter vpon the issue of the yonger brother notwithstanding the descent &c. for this that they clayme by one selfe tytle and in the same maner

ner it shalbe if there be made discentes frō one
 issue of the yonger sonne &c. But in such case
 if the father were seised of certein lāds in fee,
 and hath issue two sonnes & dyeth, and y elder
 sonne entreth & is seised &c. And after y yon-
 ger brother disseyleth him, by which disseiline
 he is seised of fee, and hath issue, and of suche
 estate dyeth seple, then the elder brother may
 not enter, but is put to his writ of entre vpon
 disseisin for to recouer the land. And the cause
 is for this, that the younger brother cometh
 to the tenementes by a wrong disseisin made
 into his elder brother. And for that wronge
 the lawe may not entende y he claym as heire
 to his father no moze then a strange personne
 that had disseised the elder brother that neuer
 had anye tytle &c. And so may ye see the diuer
 sities where the younger brother entreth after
 the death of his father, befoze any entry made
 by the elder brother in such case &c. And wher
 the elder brother entreth after the death of his
 father, and is disseised by the younger brother
 &c. In the same manner if a man seised of cer-
 taine lande in fee, hath issue two daughters, &
 dyeth, & the elder daughter entreth in y lande,
 claiming all the land to her. and thereof onelye
 taketh the profytes, and hath issue and dyeth
 seple, by which her issue entreth, which issue
 hath issue and dyeth seple, and the second is-
 sue entreth &c. et sic ultra. Yet the younger
 daughter and her issue as to the halfe maye
 enter vpon euery issue of the elder daughter,
 not

Discentes.

notwithstanding such discent, for this & they
claime by one seife tylie &c. But in suche case
if both two sisters come into the land to enter
after the death of their father, and therof were
seised, and after the elder sister thereof disced
the yonger sister of that, & to her belongeth, &
therof is seised in fee, & hath issue, & of suche
estate dyeth seised, by whiche the tenement
descend to the issue of the elder sister, then the
younger syster or her heires may not enter &c.
causa qua supra.

EAlso, if a man seised of certeine land hath
issue two sonnes, and the elder brother is ba-
starde, and the yonger brother mulier, and the
father dyeth, and the bastarde entreth and clay-
meth as heire vnto hys father, and occupeth
the lande all his life without anye entre made
vpon him by the mulier, and the bastarde hath
issue and dyeth of suche estate seised in fee, &
the lande descendeth to hys issue and his issue
entreth &c. in this case the mulier is without
remedye, for hee maye not enter nor her heire
haue no adion for to recouer the land, for the
that it is an auncient lawe in such case vnder
but it hath bene an oppinion of some men that
that shalbe vnderstand where the father hath
a sonne a bastarde by a woman, and after he
wedde the same woman, and after the sonne
slepe he hath issue by & same womā a sonne
a daughter mulier, & & father dieth &c. If such
a bastarde enter &c. and hath issue, and dyeth
seised &c. Then shal the issue of such a bastarde
have

haue the land cleerely to him as it is aforesayd
 &c. And not any other bastard bozne of the mo-
 ther that was not espoused to hys father, and
 this is a good and reasonable opinion. For su-
 che a bastarde bozne befoze the espousels solēp
 mysed betwene hys father and hys mother by
 the lawe of holpe Church is mulper, though
 that by the lawe of the lande hee is a bastarde
 bozne, and so hee hathe colour of enter as heir
 to his father, for this that hee is by one lawe
 mulier, that is to saye, by the lawe of holpe
 Church. But other wyse it is of a bastarde,
 that hath no maner of colour to enter as heyre
 in so much that he may not in no lawe be sayd
 mulier &c. for suche a bastarde is sayde, Quasi
 nullius filius. But in suche case aforesayde
 where the bastarde entreth after the deathe of
 hys father, and the mulier putteth hym out, &
 after the bastarde disseyseth the mulper, and
 hathe issue, and dyeth seyled, and the issue en-
 treth, then the mulper maye haue a wyttie of
 error vpon disseisin against the issue of the ba-
 starde, and recouer the lande &c. And so maye
 see the diuersitie where such a bastard con-
 tinueth his possession all hys lyfe wythout a-
 ny interrupcion, and where the mulier entreth
 and interrupted the possession of suche a ba-
 starde.

Also if a childe within age haue title & cause
 to enter into any landes or tenements vpon an-
 other & is seyled in fee or in fee tayle of & same
 landes & tenements, if such a mā & is so seyled die
 of

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of such estate, so seyled and the tenementys descend to his issue during the time that the child is within age such discente shall not tol the t're of the childe, but he may enter vpon the sue that is in by discent &c. for thys that no laches shalbe adiudged in a childe within age such case &c.

¶ Also if the husband & his wife, as in right of the wife haue title and right to enter in the tenementes that an other hath in fee, or in lease, & such a ternaunt dieth seyled &c. In such case y^e enter of the husband is taken away by the heire that is by discent. But if the husband die, the wife may well enter vpon the title by discent, for this that the laches of the husbande shal not turne to the wife & to hir heires in prejudice nor i damage in such case but the wife & hir heires may well enter wher such discent is during the couerture &c.

¶ Also if a man that is not of whole mynd that is to say in latin. Qui non est compos mentis, hath cause to enter in any such tenement if such discent be sup'ra be had in his lyfe during the tyme that he was out of his minde, & after he die, hys heires may well enter vpon hym that is in by discent. And in this may ye see a case that the heire maye enter, & yet hys ancestor that had the same tyle may not enter for y^e he was out of his minde at the tyme of suche discent. If he will enter after such a discent, if actio be brought this bee saed agaynst him, he hath nothing to say to him to plede, or to helpe him, but say y^e he was

out of mind at þe time of such discrēt &c. And he
shal not be receiued to say this, for this that no
ma of ful age shalbe receiued in any ple by the
law to disalt or disable his own person, But þe
heire may wel disable the person of his aūcel-
ter for aduantage of the heire in suche case, for
this þe no laches may be adiudged by the lawe
in him þe hath no discreciō in such case. And yf
such a man out of his minde make a feoffemēt
&c. he may not enter ne haue a writ called *Dū*
non fuit cōpos mētis &c. *causa qua supra*. But
after his deeth, his heire may well enter or haue
the same writ. *Dū non fuit compos mentis* at
his election &c.

Also if I be disseised by a chylde wīn age þe
cometh to another in fee, & the alien dieth sei-
sed, & the teneementes discende to his heire, the
child being wīn age, mine enter is takē away.
But if the child wīthin age enter vpon þe heire
is in by discent as he wel may, for this þe
discent was during his nonage, then I maye
enter vpon the disseisie, for this þe by hys
age hee hath defeted & adnulled the dyscent.
And in the same maner it is where I am sey-
sed, and the disseisour maketh a feoffement in
me vpon condicion &c. And the feoffee by the
of such estate seyled &c. I may not enter vpon
the heire of the feoffee. But if the condiciō bee
broken so that by suche cause the feoffoure en-
ter vpon the heire, now maye I wel enter,
for this that when the feoffoure or his heyres
enter for the condicion broken, the discent is
utterlye

Discentes.

utterly defeted.

¶ Also if I be disseysed, and the disseisor hath the issue and entreth into religion, by force of whiche the landes descendeth to his issue, in this case I may wel entre vpon the issue, and yet ther was a discent. But for this the suche discent cometh to the issue by the fathers dede, that is to say, for this that he entered into religion &c. and the discent cometh to him by the dede of God, that is to saye by death &c. mine entre is congeable, and lawful, for if I arraine assyse of Nouel disseisin againste my disseisor, though y hee after enter into religiō, this shal not abate my writ. For my writ this notwithstandinge shall abide in his force & strength, & my recouery against him shal be good by the same reason, y discent that came to his issue by his own dede may not put me fro mine entre &c.

¶ Also yf I let to a manne certayne landes for terme of twenty yeares, and another disseyseth me, and putteth out the terme, and dysseysed, and the tenementes discent vpon his heire. I may not enter, and yet the lessee by terme of yeares may wel enter for this that by his entre hee putteth not out the heire that is in by discent fro the franktenement that hath bym descended but onelye to haue tenement for terme of yeres, that which is no expulsiō of the franktenement of the heire that is in by dyscent. But otherwile it is where the tennaunt for terme of yfe, is disseysed &c. can

qua supra &c.

¶ Also it is said & if a man seised of tenements in fee by occupacion in time of warre, & die the whereof seised in time of war & the tenementes descend to his heir, such descent putteth out no man of his entre. And of this a man may see a plea in a writ of *Dypl. In. 8. C. 2.*

¶ Also no dying seised wher al the tenements cometh to another by succession shal take away the entre of any person &c. For of prelates abbots, priours, deans or persons of churches &c. though & there were twenty successors, this putteth no man from his entre &c. More shalbe said of discentis in the Chapter of continual claime &c.

¶ Continual claime. Cap. vij.

¶ Continuall claime is, where a man hath right, and title to enter in any landes or tenementes whercof another is seised in fee or in fee tale, if hee that hath title to entre make continuall claime to the landes and tenementes before the dying seised of him, that holdeth the tenements. Then though such a tenant die the of seised, and the landes & tenementes descend to his heir, yet maye hee that hath made suche claime or his heires enter into the landes and tenementes descended, because of the continual claime made, notwithstandinge suche dysseisin. As in case a man bee disseised, & the disseiser maketh continual claime to the tenementes in the

Continual clayme.

in the lyfe of the disseisour thoughe the disseisour die seysed in fee, & the land descendeth vnto his heires, yet may the disseisye enter vpon the possession of the heire, notwithstandinge such descent.

In the same maner it is, if tenant for term of life aliene in fee, he in the reuerfion, or he in the remainder may enter vpon & alien. And if such alien die seysed of such estate without continual clayme made to the tenements before & dying seysed of the aliene & the tenements because of the dying seysed of the aliene descende vnto the heire of the aliene, then may not he in the reuerfion, nor he in & remainder entre. But if he in the reuerfion, or he in the remainder hath cause to enter vpon the aliene made continual clayme to the tenements before the dying seysed of the aliene, then such a man may enter after the death of the alien as wel as he might in his life &c.

Also if landes bee let vnto a man for terme of his lyfe, the remaynder vnto another for terme of life, the remainder vnto the thirde in fee, if the tenant for terme of life alien to another in fee, and hee in the remainder for terme of life maketh continual clayme vnto the land before the dying seysed of the aliene, & after the aliene dieth &c. and after hee in the remaynder for terme of lyfe dyeth before anye entre made by him.

In this case he in the remainder in fee may entre vpon the heire of the aliene, be-
cause

Continuall clayme. fo.89

cause of continuall clayme made by him & made
the remainder for terme of lyfe, for this & such
right & he hath to enter shall go & remayne to
him in the remainder after him, in so muche &
he in & remainder in fee, may not enter vpon &
aliene in fee during & life of him in & remayn-
der for terme of life, and because he might not
make continuall clayme but when he had title
to enter. But it is to see to thee my childe how
in what maner such continual clayme shalbe
made, and to learne this thre things there bee
to vnderstande.

The first thing is if a man haue cause to
enter in any lands or tenements in diuers tow-
nes within one shire, if he enter in anye parcell
of the lands or tenementes & bee in one towne
in the name of the lands or tenementes, & & be in
one towne to which he hath right to enter & in
all the townes in the same shire, by such entere
he hath as good possession & seisin of such lads
or tenementes wherof he hath title to enter as
if he had entred into euery parcell, & this semeth
great reaso, for if a man wil entcoffe another
without dede, of certein lands or tenementes & he
hath in manye townes within one shire, and
he wil deliuer seisin to the scoffice of parcell of
the tenementes wythin one towne in the name
of all the lands & tenementes that hee hath in
the same towne, and in all the other townes &c.
all the said tenementes &c. shall passe by force
of the sayd liuery of seysine to hym to whome
the seysin is made. And yet
M.i. he

Continuall clayme.

he to whom such liuery of seisin is made, haue
no right to all the lands & tenements in all the
townes but because of the liuery of seisin made
of parcel of the lands or tenements in one towne
¶ multo fortiori. It semeth good also & so
a man hath tytle to enter into lāds or tenements
in diuers townes Within 1. shire befoze any entree
by him made, & by the entree of him made in par-
cel of & tenements in one towne in the name of
all & lāds & tenements to the which he hath tytle
to enter Within the same shire, this is a seisin
alvin him, & by such entree he hath possession & seisin
in dede as if he had entred into euery parcel of

¶ The seconde is to vnderstand, & it is a man
haue tytle to enter into any land or tenement
if he dare not enter in the same landes or tenements
nor in anye parcel thereof for doubte of
beating, or for doubte of maiming, or for doubte
of both, if he go & appoche as nigh & tenement
as he dare for such doubte, & claime by word
the tenements to bee his, incontinent by such
claime he hath a possession & seisin in the tenements
as wel as if hee had entred in dede
though he had neuer possession or seisin of the
same lands or tenements befoze the said claime
And that the law is such, it is well proued by
a plee of an Assise in the booke of Assise. 2.
38. C. 3. The tenure of whiche ensueth in the
fourme.

¶ In the countye of Dorset befoze the Justices
it was founden by verdyt of Assise
that the pleintife whiche had ryght by

Continuall clayme. fo.90

of heritage to haue & tenemēts put in plaint at the tyme of the death of his auncestoz whiche was dwelling in & town where & tenementis were, & by woord claimeth the tenementis, among his nighbozs, but for doubte of death hee durst not appzoche vnto & tenemēts, but bringeth assise, & vpon the matter found it was awarded & he should recouer.

¶ The thirde thing is to vnderstande in what tyme the clayme & is said continual clayme shall krue & help him & maketh & claim & his heir, And as to this it is to wete & he & hath title to enter when he wil make his clayme, & if hee dare appzoche vnto & land, thā it behoueth him to go vnto & land, or to parcel of it, & make his clayme. And if he dare not appzoche vnto & land for dread of beating, maiming or death, thā it behoueth him to go, & to appzoche as nigh as he dare toward & land or parcel therof, & make his clayme. And if his aduersarpe & occupyeth the land dye seised in fee or in fee taile within a yere and a daye after suche clayme made, by whiche the tenemēts discende vnto hys sonne or heire vnto hym, yet may hee that made the clayme enter vpon the possession of & heires. But in this case after the yere and the daye that suche clayme was made, if none other clayme be made, if the father then dye seised, & soow after the yere & the daye, or at another tyme after ac. than maye not hee that made the clayme enter. And therefore if hee that made the clayme will be sure alwaye that hys entre

¶.ii. shall

Continuall clayme.

shal not be takē away by such discent, it beho-
ueth him y^e Within the yere & the day after y^e first
claime to make another claime in the fourme
aforesaid. And Within the yere & the day after y^e
second claime to make the third claime in the
same maner, & Within the yere & the day after the
third claime, to make another claim & so forth.
y^e is to say, to make another claim Within euery
yere & day next after euery claim made during
the life of his aduersary, & then at what tyme
y^e his aduersary dye, his entre shal not be takē
away by no discent And suche claime made in
such maner is most comunly taken & called con-
tinual claim of him y^e made the clayme. But
yet in case aforesaide where his aduersary dy-
eth Within the yere & the day next after the first
claime, this is in the law a continuall claime,
in so much y^e his aduersary dyed Within the yere
& the day after y^e same claim, for it is no neede
for him y^e made the claime to make any other
claim, but at that tyme that hee Within the same
yere & the day &c.

¶ Also if his aduersary bee disseysed Within the
yere & a day after the claym, and y^e disseysed
die theroof seised Within the yere & the day &c.
¶ This dying seised shal not hurte him y^e made
claime, but that he may enter &c. For who so-
euer he be that dyeth seised Within the yere
the day after suche claime, that shal not hurte
him that made the claime, but that he may en-
ter though there were many dyinges seised
many discentis Within the yere & the day &c.

¶

Continual clayme. fo.91.

¶ Also if a man be disseised, & the disseisor dye
seised within the yeare & the day next after the
disseisin done, wherby the tenements discede
to his heire, in this case the entre of & disseisyn
is taken away for the yere & the day & should
helpe the disseisyn in such case &c. shall not be ta=
ken fro & time of the title of entre growen vn=
to him, but only fro & time of & clayme by him
made in time aforesayde, & for & cause shalbee
good for such a disseisyn for to make his claim &c
in as short time as hee may after & disseisin &c.

¶ Also if such a disseisour occupy the lande by
repres without any clayme made by the dis=
seisyn &c. & the disseisyn by little space befoze the
death of the disseisour make clayme in & forme
aforesayde, if so it fortune that wpythin a yeare
and a day after such clayme the disseisour dye
tysed &c. the entre of the disseisyn is congea=
te, and for thys it shalbe good for such a man
that made no clayme that hath the tyle to enter
& when he heareth that hys aduersarye lyeth
to make his clayme &c.

¶ Also it is sayde in the cases putte befoze
where a man hath the tyle to enter bycause of a
disseisin &c. The same lawe is where a man
hath the righte to enter bycause of the title &c.

¶ Also in this sayd presidents may ye knowe
of thre two thynges. One is where a man
hath the tyle to enter vpon a tenant in taylor, if he
make any such clayme vnto the land &c. Then
the state of the taile defeated, for that clayme
is an enter made by him, & is of the same of

Continual clayme.

fed in the law as he were vpon the same tenements, and had entred in the same tenements as is aforesayde. And then when the tenaunt in taylor immediately after suche clayme continueth his occupacion in the tenementes, thys is a disseisin made of the same tenementes vnto him that made the claime. Et sic p consequens the tenaunt then hath fee simple &c.

The secōd thing is, that as oft as he that hath right to enter maketh such claime, & thys notwithstanding his aduersary cōtinueth his occupacion &c. so oft y aduersary doth wrong & disseisin to him that made y clayme. And by thys case so often may he that made the same claime for every such wrong and disseisin made vnto him, haue a wryt of trespass. Quare clausū suū fregit &c. to recouer his dammages &c. Or he may haue a wryt vpon the statute of king Richard y second made the fift yere of his reigne supposing by his wryt that his aduersary hath entred into the landes or tenementes of hym that made y claime where his entre was not given by the law &c. & by such action he shall recouer his dammages &c. And if the case be such, that the aduersary occupy the tenementes with force & armes, or with a multitude of people at the time of such claime &c. Thē may he that made the claime for every such time haue a wryt of forcible enter & recouer his treble dammages. Also here it is to see if the seruant of a man that hath tytle of entre maye by the commandement of his maister make continual clayme.

Continual claime. fo.92

for his master in his name, & it seemeth that in some cases he may do this, for if he by his com=maundement come to any parcel of land & ther make the claime &c. in the name of his master, this claime is good for his master, for this he hath done al that it behoued his master to do in such case &c.

¶ Also, if a master say vnto his seruant: hee dare not go vnto the land nor to any parcel of the lande for to make his claime &c. & dare not approach moze nigh vnto the said land saue to such a place called Dale, & commaundet he his seruant to go to the same place of Dale, & ther to make a claime for him &c. if the seruant doe &c. this seemeth as good claime for his master as if he had been there in his owne person, for the seruant did al that his master durst do and ought to do by the law in such case.

¶ Also, if a man be so sicke or so lame that hee maye not in no maner come to the lande nor to any parcel of the same, or if there bee a recluse that he may not because of his order go out of his house &c. if such a maner person comaunde his seruant to goe and make claime for him &c. and the seruant dare not goe to the land, nor to any parcel thereof for doubt of beating, mayme or deathe, and for that cause suche seruant cometh as nigh to the land as hee dare by suche dreade, and maketh this claime &c. by his master, it seemeth that suche claime for his master is good and strong in lawe, for els his master should be in too great mischiefe, for

Continual claime.

It may wel be that such a person y^e is sicke or lame, or recluse, cannot finde any seruant that dare go vnto the land noz to any parcel of it to make the claime for him &c. But if the master of such a seruant be in good health, & may and dare wel go to the tenements or to parcel of it to make his claime for him &c. if such a master comaunde his seruant to go to some parcell of the land & make claime for him &c. And wher the seruant is in going to doe the commaundment of his master, he hereth by the way such things that he dare not go to any parcel of the lande for to make any claime for his master, for that cause he goeth as nigh vnto the lande as he dare for doubt of death, & ther he maketh claime for his master in y^e name of his master &c. It semeth that the doubt in y^e law in such case shalbe if such claim auaieth to his master not for this y^e the seruant did not all this that his master at the time of commaundment durst haue done.

Also, some haue said that where a man is in prison & is disseised and the disseisour dyeth seysed duringe the time that the disseysed was in prison, by which tenements descend to y^e heirs of the disseisour, they haue saide that this shal not hurte the disseisi that is in prison, but that he may wel enter notwithstanding such disseisin for this that he may not make continual claime when he was in prison. And also if such a man that is in prison bee outlawed in an action of Dette or Trespass, or in appele of robbery &c.

Continual claime. fo.93

he shal reuerse such outlawry by writ of Error &c, because hee was in prison at the time of outlawry against him pronounced.

Also if a recovery be had by discent against such a one & is in prison, he shal auoid & ingement by a writ of Error, for this & hee was in prison at the time of such default made &c. And because & such maters of record shal not hurt them & be in prison but & it shalbe reuersed, &c, A multo fortiori. It seemeth & a matter in deede, & is to say, such discent had when he was in prison, shal not hurt him &c. specially for this that he may not go out of prison to make continual claime &c.

And in the same maner it semeth to them where a man is out of & realme in & kings service for business of the realme, & if a man be disseised when he is in the service of the king, that such discent shal not hurt the disseisi, but by this & he might not make continual claime &c. it seemeth vnto them that when hee cometh againe into England he may enter again vpon the heire of & disseisour &c. For such a man shal reuerse an outlawry & is pronounced against him duringe the time that hee is in service &c. Ergo a multo fortiore. Hee shal haue aide by the law in the other case &c.

Also other haue sayd that if a man be out of the realme though he be not in the kings service, if suche a man being out of the realme be disseised of landes or tenementes wythin the realme, & the disseisour dye seised &c. the dysseised

Continual claime.

sepsy betinge out of the realme, it semeth vnto them that when the disseisi cometh into the realme that hee may wel enter vpon the heire of the disseisour &c. & this semeth vnto the for two causes.

One is, & he that is out of the realme, may not haue knowlege of the disseisin made vnto him by vnderstanding of the law, no more thi that a thing done out of the realme may be tri ed within the same realme by & oth of .xij. men &c. & cōpel such a man to make cōtinual claime which by the vnderstanding of & law can haue no knowlege or cognisance of suche disseisin made or don, this shalbe inconuenient namely when such a disseisin is done vnto him, when he was out of the realme. Also the dying seised was done when he was out of & realme. for in such case he may not by possibilitie after the cōmon presumption make no cōtinual claime, but otherwise it shalbee if the disseisye where in & realme at & time of the disseisin or at & time of the dyinge seised of the disseisor &c. & another matter they alledged for a pzoofe, that when the statute of king Edward the third, the .xxxiiij. yere of his raigne, by which statut no claime is out &c. & law was suche, that pla fine were leued of certain lands or tenements if any that was a strāger to the fine had right to haue & to recouer & same lands or tenements if he came not & made his claime therof within a yere and a day next after the fine leued, he shalbe barred for euer. *Quia dicibatur finis quod*

Continual clayme. fo.94.

quod finē litibus imponebat. And that y^e lawe
was such it is proued by the statute of westm.
the second. De donis conditionalibus, wher it
speaketh if the fine be leued of tenements ge-
uen in y^e taile &c. Quod finis ipso iure sit nul-
lus, nec habeāt heredes aut illi ad quos spectat
reuerſio licet plene etatis fuerint ī anglia & ex-
tra prisionā necesse apponere clameñ suū. So
it is proued that if a straunger that hath right
vnto y^e tenements if he were out of the realme
at the tyme of the fine leuyed &c. shall haue no
dāmage though that suche fine was matter of
recorde, by greate reason it seemeth vnto them
that a disseisin & discēt y^e is matter in dede shal
not so grieue him y^e was disseised whē he was
out of y^e realme at the time of y^e disseisin, & also
at the time y^e the disseisour died seised &c. but y^e
he may wel enter notwithstanding such discēt.
Also enquire if a man be disseised & hee arrain
aſſise against the disseisour, & the recognitours
of the aſſise challēge for the plaintife, & the iu-
dices of the aſſise wil be aduised of their iudge-
mentes vntill the next aſſise &c. & in the meane
season the disseisour dieth seised &c. If y^e sayde
ſute of the aſſise shalbee taken in lawe for the
disseisin a continuall clayme, in so much that
no defaute was vnto him &c.

Also enquire if an abbot of a monastery dye
and during the tyme of vacation a man wrong-
fully entreich in certaine parcels of land of the
monastery clayminge the lande vnto hym and
hys heyres, and of that estate dyeth seised, and
the

Continual clayme.

the land descendeth vnto his heires, and after that an abbot is chosen and made abbot of the monastery, a question is if the abbot may enter vpon the heire or not. And it seemeth to some that the abbot may well enter in this case, for this that the couent in tyme of vacation was no person able to make continual clayme for no more then they be personable to sue an action, no more be they personable to make continuall clayme for & couēt is but a dead body wout heu for in time of vacation a graūt made vnto this is voyde, & in this case an abbot may not haue a writ of entre vpon disseisin against the heire, for this that he was neuer disseised. And if the abbot may not enter in this case, then he shalbe put vnto his writ of ryghte the which shalbe to harde for the house by which it seemethe to them that the abbot may well enter &c. *Quere de dubijs, legem bene discere si vis, quere das sapere que sunt legitima vere.*

¶ Relesses. Cap. viij.

Relesses be in diuers maners, that is to say relese of ryght that a man hath in landes or tenementes, and relese of actions reals & personels, and of other thynges relese of all the right that a man hath in landes or tenementes &c. is commonly made in suche fourme, or to suche effecte. *Pouerint vniuersi per presentes me & de B remisisse, relaxasse, & omnino de me & heredibus meis quiet clamasse E. de D. totum ius, titulum, & clameum, que habui, habeo, vel quouismodo in futuro habere potero*

be in bno mesuagio cum pertin in f.

And it is to be vnderstand, that these woordes
(remisse & quiet clamasse) be of suche effect as
these woordes, relaxasse &c. & also these woordes
which be comonly put in such deedes of relea=
ses &c. y is to vnderstand. Que quoniam modo
in futurũ habere potero, be as woordes voyd in
y law, for no right passeth by a release, but the
right y the lessour hath at the tyme of his re=
lease made, for if it be father & sonne, & the fa=
ther be disseised, & the sonne lviunge, his father
releaseth by his dede to y disseisour al y right
y he hath oz maye haue in y same tenementes
hout clause of warrantise &c. & after y father
dyeth the sonne may lawfully enter bypon the
possession of the disseisour, for this that he had
no right in the lande lyving his father, but the
right descended vnto him by descent after y re=
lease made by the death of his father. Also in
a release of all the ryghte that a man hathe in
certayne landes, it behoueth vnto him to whõ
the release is made in suche case that hee haue
a free hold in the landes in dede oz in the lawe
at the tyme of y release made, for in euery case
where he to whom the release is made, hath a
free holde in dede oz in law at the tyme of the
release made &c. the release is good. Franktenit
in law is, as if a man haue disseised another, &
therof dyeth seised, by the which the tenemen=
tes descend vnto his sonne, howbeit that hys
sonne enter not in the tenementes, yet hee hath
a franktenement in the law which by force of
the

Releffes.

the difcent is caſt vpon him, & therfoze the releaſe made is good ynoughe. And if hee take a wife ſo being ſeiſed in ſ law howbeit ſ he neuer enter in deede & dyeth his wife ſhall haue therof her dower. Alſo in ſuch caſe of releaſe of al her right, howbeit ſ he to whome the releaſe is made ne hath any thing in ſ frāktenement neither in deede noz in law, yet ſ releaſe is ynoughe, as if ſ diſſeiſoz haue left lande ſ he had by diſſeiſin to another for terme of his lyfe, ſauiug ſ reuerſiō to him, if ſ diſſeiſi oz his heirs releaſe vnto ſ diſſeiſoz al the right & c. that releaſe is good, for this ſ he to whome ſ releaſe is made, had in him a reuerſiō at ſ time of the releaſe made. In the ſame maner if a leaſe be made to a man for terme of lyfe the remainder vnto another for terme of life, the remainder vnto the third in taile, the remainder vnto the fourth in fee, if a ſtranger ſ hath the right vnto the land releaſe al his right vnto any of the in the remainder, ſuch releaſe is good, for thys ſ euery of the hath a remainder veſted in hym ſelfe, yet if the tenant for terme of lyfe be diſſeiſed and after that hath right (the poſſeſſion being in the diſſeiſour) releaſe vnto one of the to whome the remainder was made, all hys right & c. That releaſe is void, for that, that he ne had in him no remainder in deede, but all onelye a ryght of a remainder at the tyme of the releaſe made. Et nota, that euery releaſe made to him that hath a reuerſion oz remainder in deede, ſhal ſerue & helpe them that haue the

the franktenement as wel as them to whome the release is made if þ̄ tenaunt haue þ̄ release in his hande &c. In the same maner a release made to a tenant for terme of life, or to a tenant in the taile, shal enure vnto them in the reuer- sion or to them in the remainder as well as to the tenant of franktenement, and shal haue a great aduantage; of that, if þ̄ they maye shewe it. And if there be lord & tenant & the tenant is disseised, & the disseisee releaseth vnto þ̄ dissei- sor al the right þ̄ he hath in the seignourie or in the land, the release is good & the seignourie is extinct. And if the goods of the disseisee be takē and of them the disseisee sueth a Replegiare a- gainst the lord he shal compell the lord to a- uow vnto him & if he wil auow vpon the dis- seisor, then vpon the matter shewed, þ̄ auow- re shalbe abated, for the disseisee is tenaunt to them in right & in lawe.

¶ Also if land be geuen to a man in the taylor reseruing vnto the donour & his heires a cer- tem rent, if the donee bee disseised, & after the donour releaseth to the donee al the right that he hath in the land, and after the donee entreteth into the lande vpon the disseisour, in this case the rent is gone, for this that the disseisee at the tyme of the release made was tenaunt in right and in lawe vnto the donour, and the auow- re of fine force ought to bee made vpon hym by the donoure for the rent beehynde &c. But yet nothyng of the right of the land, þ̄ is to saye of the reuerſion, shal passe by suche re- lease

Relesles.

lease, for this that the donee to whome the lease was made then had nothing in the land, but onely a right, & so the right of the land may not passe by such release of the donee. In the same maner it is if a lease bee made to one for terme of life, reseruing to the lessour and to his heires certein rent, if the lessee be disseised, and after the lessour releaseth to the lessee and to his heires, and after the lessee entreteth howbeit & in the case & rent is extinct, yet nothing of the right passeth &c. *causa qua supra*. But if it be verpe lord and verpe tenaunt, and the tenaunt maketh a feoffment in fee, the which feoffee neuer became tenant to the lord &c. if the Lord release to the feoffour all his right &c. that release is voyde, for thys that the feoffour haue no ryght in the lande, & he is no tenaunt in right to & lord but onely tenaunt as for the auowry to be made, & he shall neuer cōpel & lord to auow vpon him, for the lord may auow vpon him & feoffee if he will. Otherwise it is where the verpe tenant is disseised as in case aforesaide, for if the verpe tenaunt that is disseised holdeth of the lord by knightes seruice & dyeth his heires being underage, the lord shal haue & seise the ward of the heire. And so he shal not haue the ward of the feoffour that made the feoffment in fee, & so it is a great diuersitie betwene these two cases.

Also if a manne enfeoffe another in his lande vpon truste, and to the entent that he shall perfourme his last will, and the feoffment

occur:

shal perfourme his last will, and the feoffoure
occuppeth the same at the will of hys feoffees,
and after the feoffees releafe by their de. de. vn
the feoffour all the right & c. This hath ben
question yf such releafe bee good or not, and
some haue saide that suche releafe is good for
his, that no priuities was betweene the feof-
fees & their feoffour, in so much that no lease
was made after such feoffemēt by the feoffees
to their feoffour to holde at their will & c. and
some haue saide the contrary, and y for two cau-
ses. One is, that when such feoffements made
upon confidence to perfourme the will of the
feoffour, that it shalbe vnderstād by the law y
the feoffour by & by, ought to occupp y land at
the will of hys feoffees, & so it is such maner of
priuities betwene them, as if a man make a feof-
fement to another person, & they incētinet by o
the feoffement will save and graunt that y feof-
foure shal occuppe the land at their will & c. An
other cause they alledge, that if suche lande bee
worth xl. s. by yere & c. Then such a feoffoure
shalbe sware in assises & in other inquestes,
in ples reals and also in ples personels, of
that greate sommes soever that the pleintifes
shal declare & c. And this is by the commō law
of the land. Ergo this is for a great cause, and
the cause is that the lawe will that suche feof-
foure and their heires oughte to occuppe & c.
and to take thereof the rent and all the profi-
t, and all maner of pssues and reuenues & c.
though the tenementes were their owne

¶ i.

With

Releffes.

Without interruption of feoffees, notwithstanding such feoffements. Ergo the same law giveth a priority betwene suche feoffors, & them feoffes vpon confidence &c. For which cause they haue saide that the release made by suche feoffes vppō cōfidēce to the feoffour, or to his heires &c. so occupying the land &c. shalbe good ynoughe &c. And this is the better opinion, as it seemeth. Also releases after the matter in w^{ch} de somtyme haue their effecte by force to enlarge the estate of them, to whome the release is made, as if I let certain land to a man by terme of yeares, by force whereof hee is seised, & I release vnto him all the right that I haue in the land without more woordes, or put in the deede, and deliuer vnto him the deede. Then hee hath the estate but for terme of his lyfe, and the cause is for this, that when the reuerſion or the remainder is in a man, whiche will enlarge by his release the estate of the tenant &c. hee shall haue no greater estate but in the maner and fourme, as if suche a lease were seised in fee, and will by his deliuerie make estate to one in a certeine fourme &c. and deliuer vnto him seisin by force of the last deede if in such deede of feoffement there be woordes of inheritance &c. Then hee hath the estate but for terme of lyfe &c. and so it is in the release made by hym in the reuerſion, or the remainder, for yf I let lande to a man for terme of lyfe, and after I release vnto him all my righte without more sayinge in the

lease, his estate is not enlarged. But if I re-
lease vnto him & to his heires of his body en-
gendred, then hee hath fee taile, & if I release
vnto him & to his heires, then he hath fee sim-
ple. So it behoueth in such case to specifie in
deede, what estate hee to whome the release is
made shal haue &c. And sometime release shall
enure to sett & put the right of him & maketh
the release to him, to whom & release is made.
As a man is disseised & hee releaseth vnto the
disseisor all the right & he hath. In this case
the disseisor hath his right, so & where his es-
tate before was wrong, now by the release it
is lawfull & right, but note wel & when a man
is seised in fee simple of any lands or tenements,
and another will release vnto him all & right
that he hath in the same tenementes it needeth
not to speake of the heires of him to whome &
release is made, for this that hee had fee sim-
ple at the time of the release made, for if the
release were made to hym and to hys heires
for one daye or for one howser, this shalbee as
strong vnto him in the lawe, as hee hadde re-
leased to hym and to his heires, for when hys
right was gone from him at one tyme by hys
release without any condicion &c. to hym that
had fee simple it is gone for euer. But where
a man hath a reuerfion, or a remainder in fee
simple at the tyme of the release made there
he will release to the ternaunt for tearme
yeares or for tearme of lyfe, or in the
ple, it bechoueth to determyne the estate
N.ii. that

R.eleffes.

that he to whom the release is made shall have
 by force of the same release. For this & such re-
 lease goeth to enlarge & estate &c. of him to whom
 the release is made. But otherwise it is when
 a man hath but a right vnto the land & hath
 nothing in the reuerſion nor in the remainder
 in deede. For if ſuch a man release al his right
 to one & is tenant of the franktenement all his
 right is gone, though that no mencio be made
 of his heirs of him to whom the release is made.
 For if I let land to a man for terme of life, &
 I after release vnto him for to enlarge his
 estate yet it behoueth & I release vnto hym
 to his heirs of his body engendred, or to him
 & to his heirs males of his body begotten
 by ſuche ſemblable estate &c. or otherwoyle he
 hath no greater estate than he had before. But
 if my tenant for terme of life let the ſame land
 out to another for terme of the life his leſſe,
 remainder vnto another in fee, now if I re-
 lease vnto him to whome my tenant letted his
 term of lyfe, I ſhalbe barred for euer, though
 & no mencion be made of his heirs, for this
 that at the time of the release made I had no
 reuerſion but only a right to haue the reuer-
 ſion. For by ſuch a leaſe with a remainder
 ner that my tenant made, in this caſe my re-
 uerſion is diſcontinued & ſuch a release ſhall
 vnto him in & remainder to haue aduan-
 tage of this as well as to the tenant for
 terme of lyfe, for to that entent the tenant for
 terme of lyfe & he in the remainder bee as one
 tenant

tenant in the law, & be as if one tenaunt were sole seised in his demeane as of fee at the time of suche release made vnto him. Also if a man be disseised by two if hee release vnto one of them he shal hold his fellow out of the lande & by such release shal haue sole possessiō, & estate in the land. But if one disseisour enscoffe two in fee, & the disseisi release to one of them this shal enure to both the said seoffee. And y cause of the diuersity betwene these two cases is repugnant ynough.

¶ Also if I be disseised, and the disseisor is disseised if I release to the disseisor of my disseisor, I shall neuer haue assise nor entre vppon his disseisour, for this that his disseisour hathe my right by my release &c. And so it semeth in this case that if there were twenty disseisours ech after other, and I release to the last disseisor he shal barre al the other of their actions, and their title. And the cause is as it seemeth, for this y in manie cases when a man hathe a lawful title to enter though he enter not &c. he shal defete al mean titles by his releas &c. But this is not in euery case as shalbee said afterwarde.

¶ Also if a man be disseised the which hath a sonne bin age, & dieth & beeing the sonne bin age the disseisor dieth seised, & the land descendeth to the heire, and a straunger abateth and after the sonne of the disseisi when he cometh vnto full age releaseth all his righte &c. to the abatour. In this case the heire of the disseisor

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for shal haue no assise of mortdancester againe
the abatour but he shalbee barred of the assise
for this that the abatour hath the right of the
sonne of the disseis by his release, and the entree
of the sonne was lawful &c. for this y he was
within age at the time of the discent &c. but if
a man be disseised & the disseisour maketh a le-
ssement vpon a condicion y is to say to geue
vnto him certayne rent and for the defaute of
payment a reentre &c. if the disseis release to y
lessee vpon condicion yet this altereth not the
estate of the lessee vpon condicion as it was
before. In the same maner it is where a man
is disseised of certayne land and the disseisour
graunteth a rent charge out of the same lande
though that after the disseisye releaseth vnto
the disseisour &c. yet the rent charge abideth in
his force. And the cause is in these twoe cases
y a man shal haue none aduantage by such re-
lease that shalbe againste his owne propprie ac-
ceptance & against his own grant. And though
y some haue said that wher the entree of a man
is congeable vpon a tenaunt if hee release to
the same tenaunt that this auailleth vnto the
tenant so as if hee had entred vpon the tenant
and after enfeoffed him &c. this is not true in
euerye case for in the firste case of these twoe
cases if the disseisye in fee enter vpon the lessee
vpon condicion and after enfeoffeeth him, then
the condicion is all put asyde and voyde. And
in the seconde case if the disseisye enter and en-
feoffe him that graunted the rent charge then

is & rēt charge anoided. But it is not anoided by any such release & an entre made, &c. Also if a mā be disseised by a child & in age the which alieneth in fee, & & aliene dieth seised, & his heir entreteth being the disseisour & in age: Nowe it is in the electiō of the disseisour to haue a writ of Dū fuit īfra etatē, or a writ of right against the heir of the alpen, & which writ soeuer hee taketh of thē, he oughte to recouer by the law. And also hee maye enter into the land without any recouerye, & in this case & entre of the disseisour is taken awaye, but in this case if the disseisour release his right to the heir of the alpen & after the disseisour bringeth a writ of righte against the heir of the aliene, and hee ioyne the mysse vpon the cleare ryght &c. the Graund assise ought by the law to fynde that the tenant hath more cleere right &c. then hath the disseisour, for this that the tenant hath the righte of the disseisour & his release which is more ancient and more clere right than the right of the disseisour, for by such release, all the right of & disseisour passeth vnto & tenāt, & as in & tenant. And to this sōe haue said, & in such case wher a man hath righte to lāds or tenemēts but his entre is not lawfull, if he release vnto & tenant &c. Than suche relese shal enure by way of extinguishment. As vnto this it may be sayd, & this is trueth vnto him that releaseth, for by his release hee hath dismissed himselfe cleene of his right as to his person. But yet & righte & he had may wel passe & go vnto & tenāt by his

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release, for it shold be incōuenient that such an
auncient right shold be extinct al vtterly &c. In
it is cōmonly said that right may not dye. But
a release y goeth by the way of extinguishtment
against all persōs, is wher he to whō y releafe
is made may not haue this y vnto him is relea-
sed. As if ther be lord & tenant, & the lord rela-
seth vnto the tenaunt al y right that he hath in
the lordship, or all the right y hee hath in y lād
&c. such a releafe goeth by way of extinguisht-
ment against all persons, for this, that the te-
naunt may not haue the same of himself. In
same maner is a releafe made to the tenant of
land of a rent charge, or of a common pasture,
for this that the tenāt maye not haue that, that
vnto him is released &c. So suche releafes goe
away by extinguishtment againste all persons.
¶ Also, to proue that the grand assise oughte to
passe for the demaundaunt in the case aforesaid,
I haue heard often in the lecture vpon the sta-
tute of Westm. the second that begynne the. In
casu quando vir amiserit per defaultum tencme-
tum quod fuit ius vxoris sue &c. that is at the
common law before the statute, if a lease wher
made to a tenant for terme of lyfe, the remain-
der ouer in fee, & a strāger by a fained actiō re-
couer against the tenant for terme of lyfe by de-
fault, & after the tenant dieth, he in the remain-
der had no remedy before the statute, for this,
that he had no possession of the lād, but if he in
the remainder had entred vpon the tenants for
terme of lyfe, and disseised hym, and after the
tenant

tenant entreth vppon him, & after the tenaunt
 for terme of lyfe leaseth by ſuche recouerye had
 by default and dyeth, now he in the remainour
 maye well haue a writ of right againſt hym &
 recouered, for this that the miſe ſhalbe ioyned
 only vppon the clere right. And yet in this caſe
 the ſeiſine of him in the remainder was defeated
 by the entre of the tenā for terme of lyfe. But
 peraduenture ſom wil argue and ſaye & he ſhall
 haue no writ of right in this caſe, for this that
 when the miſe is ioyned in ſuch maner, that is
 to ſaye, if the tenant haue more clere right to
 lande in the maner as it is holden, then the de-
 mandant hath in the maner as hee demaundeth.
 And for this that the ſeiſine of the demandant
 was defeated by the entre of the tenaunte for
 terme of lyfe, then hee hath no right in the ma-
 ner as hee demaundeth. Unto this it may bee
 ſaid that theſe wordes (*Adodo & for ma prout*
et.) in manye caſes bee wordes of maner of
 pleading, and no wordes of ſubſtance. For if
 a man bring a writ of entre (*In caſu prouiſo*)
 of alienacion made by & tenant in dower to hyſ
 diſſenheritance, & pleadeth of the alienaciō ma-
 de in fee, & the tenant ſaith that hee aliened not
 in the maner as the demaundaunt hath decla-
 red, and vppon this theye bee at iſſue, and it is
 found by verdyte that the tenant aliened in the
 taile, or for terme of anothers lyfe the demaun-
 daunt ſhal recouer, & yet & alienacion was not
 in the maner as the demandant hath declared.

¶ Alſo if there be Lord and tenant, and the
 tenaun

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tenant holdeth of the Lord by fealty onely, and the lord distraineth \bar{y} ternaüt for rēt, & \bar{y} tenat bringeth a w \bar{y} it of trespas against his lord for his cattaille so takē, & the lord pleadeth \bar{y} the ternaüt holdeth of him by fealty & certein rēt, & for the rent behind he came to distrain &c. And demaündeth iudgemēt of the w \bar{y} it brought against him. *Quare vi & armis* &c. And \bar{y} other saith that hee holdeth not of him in the maner as hee supposeth, and vpon this they be now at issue, & it is founde by verдите that hee holdeth of him by fealty tantum. In this case the w \bar{y} it shal abate, and yet he helde not of the lord in the maner as the lord had saide, for the matter of the issue is, whether \bar{y} ternaüt holdeth of hym or not. For if hee hold of him, though \bar{y} lord distrayne for other seruices that hee ought not to haue, yet such w \bar{y} ite of this *Quare vi & armis* &c. lyeth not against the lord but shall abate.

¶ Also in a w \bar{y} ite of trespas of beatinge or of goods taken, if the defendaunt plede nothing culpable in the manner as the pleintife supposeth, and it is founde that the defendant is culpable in another town, or at an other day than the pleintif supposeth, yet he shal recouer. And in manye mo other cases these woordes, that is to saie in the maner as the demaundaunt or pleintife hath supposed, bee no matter of substance of \bar{y} pssue, for in a w \bar{y} pt of right where the mise is ioined vpon the clere right, it is as much to say and to such effect, that is to wete, whether hath the more righte the ternaüt or

the demandant to the thing so demanded &c.

¶ Also if a man bee disseised and the disseisour
 dyeth seised &c. and his sonne entreth by dys-
 cent, and the disseisour entreth vpon the heire
 of the disseisour, the whiche entre is a disseisie
 &c. if the heire bringe assise of a writ of righte
 against the disseisour he shalbe barred. For this
 that when the graunde assise is swozne there
 othe is vpon the clere righte and not vpon the
 possession &c. for if the heire of the disseisour
 had brought assise of nouel disseisin, or a writ
 of entre in nature of assise & recovered against
 the disseisour & sued execution yet may he disseisour
 haue a writ of entre in the Per against him of
 the disseisin made vnto him by his father, or
 he may haue against the heire a writ of right.
 But if the heire ought to reconer againste the
 disseisour in the case aforesaide by writ of righte
 then all his right shalbee clerely gone, for this
 is a fynall iudgement should be geuen againste
 him which should be against reason: wher the
 disseisour hath moze clere right &c. And knowe
 we my sonne that in a writ of righte after this
 that the fower knights be chosen in the graunde
 assise, then ther is no greater delay the a writ
 of forimodon after this the parties be at an if
 &c. & if the mise be ioined vpon battaile the
 there is lesse delay.

¶ Also a release of al the right &c. in some case
 a good made vnto him that is supposed te-
 nant in the lawe though he haue nothing in
 the tenementes as in a Precipe quod reddat,
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If the tenant alien the land hanging the **wo**rk
after **¶** demandat releaseth to him al his right
¶ release is good, for this that hee is suppoled
to be tenant by the suit of the demandant, and
yet he hath nothing in the land at the time of
the release made. In the same maner it is if in
a **¶**recipe quod reddat, **¶** tenant vouches, and
the vouches enter into the garranty, if after the
demandant release to the vouch al his right
¶c. this is good inough, for this **¶** the vouches
after this that he hath entred in the garranty
is tenant in law to **¶** demandant.

¶ Also as to releases of actions reals and
actions personels it is so, that some actions be
mixte in the realtie and in the personalty, as if
an action of wast bee sued against the tenant
for terme of lyfe, this action is in the realty
for this that the place wasted shall bee recove-
red. And also it is in the personalty for this
¶ treble damage shall bee recovered for **¶** wast
¶ wast done by **¶** tenant, **¶** for this in this ac-
tion a releas of action real is a good plee in bar
¶ so is a releas of actions personels. In the
same maner it is in assise of nouel disseisin, for
this **¶** it is mixt in the realty **¶** in the person-
tie. But if such assise be arraigned against the
disseisor the tenant of the disseisor may pley
a releas of actions personels for to barre **¶** as-
sise but not releas of actions reals, for nōe the
plede a releas of actions reals in assise, but
tenants **¶**c.

¶ Also in such actions that behoueth to be
fined

lued against the tenant of the franktenement if the tenant haue a releafe of accions reals of the demaundant made vnto him befoze & w^{it} purchased & he pleadeth it, this is a good p^{lee} by the demaundant to say, that he that pleadeth that p^{lee}, had nothing in the franktenement in tyme of releafe made for that he had no cause to haue accion real against him.

¶ Also in such case where a man may enter in landes or tenementes, he may haue of thys an adion reall, which is geuen vnto him by & law against the tenant. As in this case the demaundant releafe to the ternaunt al maner accions reals, yet this taketh not a swaye & entre of the demaundaunt but the demaundant may well enter. Notwithstanding such releafe, for this that nothing is released but the adion &c. In the same maner it is of thinges personels. As if a man wrongfully take my goodes, if I releafe vnto him all adions personels, yet I maye by the lawe take my goodes out of hys possession.

¶ Also if I haue cause to haue a w^{rite} of detinue of my goodes against another though I releafe vnto him for al accions psonels, yet I may take my goodes out of his possession, for this that no ryght of goodes is released to him but only & accion &c. Also if a manne bee disseised, and the disseisoure maketh a scoffement vnto dyuers persons to hys vse, and the disseisour continually taketh the profytes &c. and the disseisy releaseth vnto him all accions reals

Releffes.

release, and after he sueth against him a writ of entre in nature of assise beccause of the statute for this that hee taketh the profits. Enquire how the disseisour shalbe holpen by the said release, for if hee will plede the release generally, then the demaundant may say that he had nothing in the franktenement at the time of the release made, and if hee plede the release specially the it behoueth him to know a disseisin, and then maye the demaundaunt enter in lande &c. by his consaunce of the disseisin &c. But peradventure by especial pleding he may be barred of the action that he sueth &c. though y the demaundant may enter &c.

¶ Also if a man sue appelle of felony of the death of his auncester against another though the appellant release vnto y defendant all manner actions reals & psonels, this shal not help the defendant, for this that this appell is not an action real, in so much that the appellat shal not recouer any realtye, nor suche appell is no accio personal. In so much y the wrong was vnto his auncester and not vnto him, but if he release to the defendaunt all maner of actions then it shalbe a good barre in appelle, and so a man may see that a release of all maner of actions is better then a release of all maner of actions reals & personals &c.

¶ Also in appele of robbery if the defendaunt wil plede a release of the appellant of all actions personels, this seemeth no plice, for an action of appele where the appellant shall haue
indgt

judgement of death &c. it is moze high then an accion personall, and it is not properly said an accion personal, and therefore if the defendandt will haue a release of the appellaunte to barre him of the appele, it behoueth him to haue a release of all maner of accions of appele of release, or of all maner of accions as it seemeth &c. But in appele of mahym a release of all maner of accion personals is a good plee in barre, for this that in suche an accion hee shall recouer but damages.

Also if a man bee outlawed in an acciō personall by procelle of the originnall, and byng a writ of errour, if he at whose suit hee was outlawed will pleade againste him a release of acciōs personals, this seemeth no plee, for by the said acciō hee shal recouer nothing in the personallty, but all onelye to reuerse the outlarpe, but a release in a writ of errour shalbe a good plee &c.

Also, yf a man recouer dette or dammage, the release to the defendaunte all maner of accions, yet he may lawfully sue executiō by *Capias ad satisfaciendū* or by *Elegit*, or by *Fieri facias*, for executiō by suche writte maye not be sayde an accion, but yf after a yere & a day the pleyntife will sue a *Scire facias* to haue executiō &c. thā it seemeth a release of al accions shalbe a good plee in barre, but some haue thought the contrary, in so much that the writ of *Scire facias* is a writte of executiō, & is to haue executiō. But in so much that bypon the same writ the defendandt may plede diuers matters

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ters after the iudgement geuen to put him fro execution, as outlaw, & diuers other &c. therfore it may well be said accio &c. & I trow that in a Scire factas oute of a fine a releaffe of all manner of accions is a good plee in barre, but wher a man hath recovered det or dammage & it is accorded betwen thē that y^e pleintife shall be put out fro accio, thā it behoueth y^e the pleintife make a releafe to hym of all maner accio.

¶ Also, if a man releafe to another all maner demaunds, this is the most best relefe, y^e hee to whō the releafe is made can haue, & most shall enure to his aduantage, for by such releafe of all maner of demaunds all maner of accio's real personels, & accions of appeles bee gone & extinct, and all maner of execution bee gone and extinct. And if a man hath title to enter in any landes or tenements by suche releafe, his title is gone. And if a man haue rent seruice or rent charge or comon of pasture &c. by suche releafe of all maner demaundes to the tenaunt of the land, whercof the seruice or the rent is going oute, or in what lande soeuer the comon bee, the seruice and rent, & the comon is gone and extinct &c.

¶ Also if a man releafe to another al maner quarrels, or all controuersies or debates betwene them. Enquere to what matter, and to what effect such woordes extende.

¶ Also, if a mā be bound by his deede to an other in certein sūme of money to pay at y^e feast of S. Michael then next folowing &c. if y^e ob-

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lige befoze the said feast release to the obligour
all actions he shalbe barred of the duetic for e-
uer, & yet he might haue no action at the tyme
of the release made. But if a man let lande to
another for terme of yeres to pelde at the feast
of saint Michael next ensutng. xl. shillings &
befoze the same feast he release the to the lessee
all actions, yet after the same feast he shal haue
an action of Det for the non payment of the. xl.
shillings notwithstanding y^e said release. Stu-
dye the cause of the diuersitye betweene these
two cases.

Also, wher a man wil sue a writ of right it
behoueth that he plede of disseisin of him oz of
his auncesters, & also y^e the seisin was in time
of y^e same king as he pledeth in his ple, for this
is an asscient law vled as it apereth by report
of a certein ple, in such forme as ensueth. Sir
Thon Barrey brought a writ of right against
Raphnold Wshlington, & demaunded certein te-
nements &c. the mese was ioined in the bank,
& the originall & the procelle were sente befoze
Justices errantes, wher the parties came & y^e
xi. knights were swozne without challenge.
of the parties to be allowed for this y^e the elec-
tion was made by assent of the parties with y^e
xi. knyghtes, and the othe was such,
that I shall saye trouthe &c. whether R. of B.
haue moze ryghte to holde the tenements that
Thon Barrey demaundeth against him by his
writ of righte oz Thon to haue the tenements
wher he demaundeth, and for nothing to let to
D. i. sap

Relesles.

saye the trouthe as god me e helpe &c. without
 saying to their knowledge, & such othe shal be
 made in attaint, & in battaile, & in swaginge of
 law, for those do every thing vnto an ed. But
J. Barrey pleded of \bar{y} disseisi of one **Rafe** his
 auncester in time of king **Henry**, & **Raynold** vpo
 the misc ioyned tendered halfe a marke for the
 time &c. & vpo this **Herle Justice** laide to the
 graund assise, after \bar{y} they were charged vpon
 \bar{y} clere right, goodmen, **Raynold** gaue halfe a
 mark to the king for \bar{y} time to the intet \bar{y} if ye
 find \bar{y} the auncester of **Jhon** was not seised in
 time \bar{y} the demandant hath pleded you shal en-
 quire no further vpon the right, & for this ye
 shal say to vs whether the auncester of **Jhon**
Rafe by name was seised in the time of kyng
Henry as he hath pleded oz not, & if ye finde
 he was not seised in the time ye shall enquire
 no more, & if ye find \bar{y} hee was seised, then en-
 quire farther of the right, & after the graund
 assise came & their verdit, & said \bar{y} **Rafe** was
 not seised in the time of king **Henry**, whereby
 it was awarded \bar{y} **Raynold** shold hold the te-
 nemts against him demaunded to him & to his
 heirs quite of **J. Barrey** & his heirs to the
 menant, & **Jhon** in the mercede.

C Confirmation. cap. 9.

A Dede of Confirmation is most commonly
 in such fourme oz to suche effect. **Pouert**
vniversi &c. me **A de B.** ratificasse, appbasse
 & confirmasse **C de D.** statu & possessione que
 habet

Confirmacion. fo. 106

habeo de & in vno meſuagio &c. cū pertineñ in
 p. & in ſome caſe a dede of cōfirmaciō is good
 & vailable, where in the ſame caſe a dede of
 releaſe is not good nor vailable. As I let lāde
 to a mā for terme of his life, the which letterth
 & ſame land to another for .xl. yeres, by force of
 the which he is poſſeſſed, if I by my dede con=
 firme & ſtate of & tenant for terme of yeres & &
 tenant for terme of life dieth during the terme
 of yeres I may not entre in the land duringe
 the ſame terme, yet if I by my dede of releaſe
 have releaſed to the tenant for terme of yeres
 in the life of the tenant for terme of life, the re=
 leaſe ſhalbe voide, for this that then no priuity
 was betwene me & the tenant for terme of ye=
 res for a releaſe is not auailable to the tenant
 for terme of yeres but where a priuitie is be=
 twene him, & him & releaſeth. In the ſame ma=
 ner is if I bee diſſeiſed & the diſſeiſor maketh
 a releaſe to an other for terme of yeres, yf I
 releaſe vnto the termor & is void, but if I cō=
 firme & ſtate of the termor that is good & effec=
 tual. Also if I bee diſſeiſed & I confirme the
 ſtate of the diſſeiſſour then he hath a good and
 rightful eſtate in fee ſimple though & in & dede
 of cōfirmacion no mencio is made of his heirs
 in this & he had fee ſimple at the time of & cō=
 firmaciō, for in ſuch caſe if the diſſeiſy cōfirme
 ſtate of the diſſeiſor to haue & to hold to him
 for terme of his life, yet & diſſeiſor hath fee ſi=
 ple is ſeiſed in his demefne as of fee for this
 & his eſtate was cōfirmed he had fee ſiple
 ſuch dede he mai not chāge his eſtate wout

Confirmacion.

vpon him &c. in & same maner it is if the estate
 be confirmed for term of a day or for terme of a
 howser hee hathe a good estate in fee simple in
 that that his estate in fee simple was once con-
 firmed for confirmare idē est qđ firmū facere.
 Also if two bee disseisours and the disseisye
 releaseth to the one, hee shall holde his seilow
 out of the lande, but if the disseisye confirme
 the state of the one wout more spech in & dede,
 soe say & he shal not hold his seilow out but he
 shal hold iointly w him, for this & nothig was
 confirmed but this estat & was ioint, & for this
 some haue said & if ij. iointenants bee & the one
 confirmeth & estate of the other, & he hath but
 a ioint estate as hee had befoze, but if hee haue
 such woordes in the dede of confirmacion to haue
 & to hold to him & to his heirs all the tenements
 wherof mencio is made in & confirmacion, then
 he hath estate sole in & tenements, & therfore
 is a good & a suere thing in euery confirmacion
 to haue these woordes to haue & to hold & tene-
 ments &c. in fee or in fee taile or for terme of life,
 or for terme of yeares after as the cause or the
 matter is, for to the intent of some if a man let
 land to another for terme of life & after he con-
 firmeth his estate by these woordes to haue &
 hold his estate to him & to his heirs, this con-
 firmacion as concerning his heirs is void, for
 his heires cannot haue his estate whiche was
 but for terme of ipse but if he confirme his es-
 tate by these woordes to haue the same land to
 him & to his heires this confirmacion maketh
 fee simple in this case to hym in the lande

Confirmacion. Fo.107.

this þ this words to haue & to hold &c. goeth in
þ lād & not to þ estate þ hee hath &c. Also if I
let certain lād to a womā sole for terme of hir
life the which taketh a husbād, & after I cōfir-
me þ estate to þ husbād & to the wife for term
of their two liues, in this case the husbād hol-
deth not ioyntly w þ wife, but holdeth þ right
of his wife for terme of hys life, but this cōfir-
maciō shall enure to the husbād by way of re-
mainder for terme of his life, if he suruiue hys
wife, but if I let lād to a womā sole for terme
of yeres, which taketh a husbād, & after I cō-
firme the state to þ husbād & þ wife for term of
both their liues, in this case they haue ioynt e-
state in the frank tenemēt of the lād for this þ
the wyfe had no franktenement before. Also if
a parson of a Churche charge the glebe of his
church by his deede, & the patrō & the ordinary
cōfirme the same graunt, & all þ is cōprised w
in the same graunt, then the same graūt shalbe
in his strengthe after the purpose of the same
graunt, but in such case it behoueth that the pa-
trō haue fee simple in the auowson, for if he ha-
ue estate in the auowson for terme of life or in
taylor, then the graunt shal stād but during hys
life & the lyfe of the person that graunted it &c.
Also if a man let land for terme of life which re-
nant for terme of life chargeth the land with a
rent in fee, & he in þ reuerſion confirmethe the
same graūt, this charge is good inough & effec-
tual. Also if ther be a perpetual chaūtry wher
of the ordinary hath nothing to medle nor to
do, the patron of the chauntrye, and the chap-
D. iij. layne

Confirmacion.

laim of the same chauntry may charge & chaun-
try with a rente charge in perpetuittie. Also in
some case these verbes dedi & concessi haue the
same effecte in substance, and shall enure to
same entent as this verbe confirmau, as if I
be disseised of a plough land and after I make
such a deede &c. *Sciatis presentes &c. quod de-*
di to the disseysour the saide ploughe lande &c.
And if I deliuer all onely & dede to him with-
oute liuery of seysine of the lande, that is good
confirmacion, and as strong in the lawe as if
he had in the deede thys verbe confirmau &c.
Also I let lande to a man for terme of yeaeres,
by force of whiche he is possessed, and after I
make to him a deede &c. *Quod dedi vel concessi*
&c. the same lande to haue for terme of his life,
and delpuer him his deede, then by and by he
hath estate in the lande for terme of hys lyfe, &
if I saye in the deede to haue to him and to his
heires of hys bodye engendred hee hathe esta-
te in the tayle, and if I saye in the deede to ha-
ue and to holde to hym and to hys heires he
hath estate in fee simple, for thys shall enure to
hym by force of confirmacion to enlarge his
estate. Also if a man bee disseysed, and the dis-
seysour die the seised, and his heire is in by dis-
cent, after the disseysy, and the heire of the dis-
seysoure make ioyntely a deede to another in
fee, and liuery of seysin vppon this is made as
to the heire of the disseysour that enscaleth the
deede the tenementes passe by the same deede
by waye of feoffement, and as to the disseysor
that enscaleth the same deede, this shal not en-

Confirmacion fo.108

ure but by way of confirmation, but if the dis-
seisy in this case bring a writte of Entre in the
(Per & Cui) against the alpen of h̄ heire of h̄
disseisor enquire how he shall plede that deede
against the defendaunt by way of confirmaciō
ec. And know ye this my chyldre, that it is one
of the most honorable, lawdable, and profita-
ble things in our law to haue the science of wel
pleding, in actions reals & personals, and for
this I counsaile thee, specially to set thy cou-
rage & cure to learne that. Also if there be lord
and tenaunt, and the lord confirmeth h̄ estate
that the tenaunt hath in the tenementes, yet h̄
seignory wholy abydeth to the lord as it was
before. In the same maner it is, if a man haue
a rent charge out of a certaine land, & hee con-
firme the state that the tenant hath in h̄ lande,
yet abydeth to the confirmour the rent charge.
In the same maner it is if a man haue cōmon
of pasture in the land of anye other, if hee con-
firme the state of the tenant of the land nothig
shal depart from him of his cōmon, but thys
notwithstanding the common abydeth to him
as it was before.

¶ But if there be lord and tenant which hol-
deth of his lord by seruiice of fscaltie and x. s.
of rent, if the lord by his deede confirme the
estate of the tenaunt to hold by xii. d. i. d. or by
an ob in this case the tenaunt is discharged of
all other serupce and shall yelde nothing to the
lord but that that is comprised within h̄ same
confirmacion, yet if the lord will by the deede
of confirmation that the tenaunt in thys case

D. iiii.

ought

Confirmacion.

ought to yeld to him an hawke oz a rose perche
at such a feast &c. this reseruacion is boide, for
this that he reserueth to him a new thing that
neuer was parcel of the seruices before & con-
firmacion, & so the lord may abridge the serui-
ces by such confirmacion, but hee may not re-
serue to him a new seruice &c.

Also, if there be lord mesne & tenant, & the te-
nant is an abbot & holdeth of the mesne by cer-
tein seruices perche, & which hath no cause to
haue acquittance against his mesne for to bring
a writ of mesne &c. In this case if & mesne co-
firme the state & the abbot hath in the lande, to
haue & to hold the land vnto him & his succe-
sours in frankalmoigne oz free almes &c. In
this case this confirmacion is good, & then the
abbot holdeth of & mesne in frankealmoigne, &
the cause is for this, & no new seruice is reser-
ued, for al the seruices specially specified, be ex-
tinct & nothing is reserued to & mesne, but the
abbot shal hold of the lande, & that was before
the confirmacion, for he that holdeth in frank-
almoigne ought to do no bodely seruice so that
by such confirmacion it appeareth that & mesne
shal not reserue vnto him no new seruice, but &
the lands shalbee holden of him as it was be-
fore, & in this case the abbot shal haue a writ
of Mesne if he be distrained in his defaulte by
force of the said confirmacion where percase hee
might not haue such a writ before &c.

Also if I be seyled of a villaine, as of a vil-
lein in grosse, & another taketh him out of my
possession claimig him to be his villain, whereas

he

Confirmacion fo.109

he hath no right to haue hī as his vīllein, & af-
ter I confirme ȳ state to him ȳ he hath in my
vīllein, this cōfirmaciō semeth void, for this ȳ
none may haue possessiō of a mā as of a vīllein
i grosse, but he which hath right to haue hī as
his vīllein in grosse, & in so much ȳ he to whō
ȳ cōfirmatiō was made, was not seised of him
as of his villain at the time of of the cōfirma-
cion such confirmation is voyde, but in this
case if such words were in ȳ dede. Sciatis me
dedisse & confirmasse tali &c. talē villanū meū,
this is good, but this shal enure by force & wai
of graunt & not by way of cōfirmacion &c. Al-
so some times these verbes (dedi & concessi)
enure by way of extinguishment of the thinge
geuen or granted. As a tenaunt holdeth of hys
lord by certein rent, & the lord by his dede grā-
teth to the tenaunt & to his heires the rent &c.
this shal enure to ȳ tenant by ȳ way of extin-
guishmēt for by this graūt the rent is extinct.
In this same manner it is where one hath a
rent charge of certein land, & he granteth to ȳ
tenant of the land ȳ rent charge, & the cause is
for this ȳ it apeareth by the words of ȳ grant
that the will of the donour is, that the tenant
shal haue the rent &c. in so muche that he maye
haue no rent out of his owne lande, for thys
the dede shalbee vnderstande and take for the
moſte aduauntage and auayle of the tenaunte
ȳ it may be takē, and ȳ it is by waye of extin-
guishment. Also if I let land to a manne for
terme of yeres, and after I confirm his estate
without mo wordes put in the dede, he hath
no

Confirmacion.

no greater estate but for terme of yeres as he
had before. But if I release to him my right
that I haue in the lande wythout mo wordes
put in the dede, hee hath estate of frankten-
ment, and so maist thou my chyldre vnderstande
greate diuersities betweene releases and con-
firmacions. And if I bee within age and let
land to one for terme of xx. yeres, & he graun-
teth the lande for terme of x. yeres, so that he
granteth but parcel of his terme. In this case
when I am of full age if I release vnto the
grauntee of my lease &c. this release is voyde,
for this that there is no priuie betwene him
and me. But if I confirme his estate, thā this
confirmation is good, but if my lessee graunt
all his estate to another, then my release made
to the grauntee is good & effectuell. Also if a
man graunt a rent charge out of his land to a
other for terme of his life, & after I confirme
his estate in the said rent, to haue and to holde
to him in fee taile, or in fee simple, thys con-
firmaciō is void, as to the enlarging of his estat
for thys, that he that confirmeth hadde no re-
uerſion in the rent, but if a manne lepled in fee
of rent seruice or of rent charge, and he graun-
teth the rent to another for terme of lyfe, and
the tenant attorneth, and after hee confirmeth
the estate of the grauntee in fee taile or in fee
simple, this cōfirmation is good as to enlarge
his estate after the wordes of the dede of
confirmacion, for this, that hee that confirmeth
the estate at the time of the confirmacion had
the reuerſion of the rent &c. But in thys case

above

asforesayd, wher a man graūteth a rent charge to another for terme of lyfe, if he will that the grauntee shall haue estate in the tayle or in fee hym behoueth that the dede of the grauntee of the rent charge for terme of lyfe, bee resurrended or cancelled, & then to make a new dede of suche a rent charge to haue and to take to y^e grauntee in the tayle or in fee. *Ex pancis ditis intendere plurima potes.*

Attournement. Cap. x.

An Attournement is if there be lord & tenant & the lord wil graunt by his dede the seruyce of his tenant to another for terme of yeaeres, or for terme of lyfe or in tayle or in fee him behoueth that the tenat attorne to the graūtes in y^e lyfe of the grauntour by force and vertue of y^e graūt, or otherwile the graūt is voide and attournemēt is none other thyng in effecte, but whē the tenanth hath hard of the graūt made by his Lord, that the same tenant by word agree to the said graunt, as to say to y^e graūtee. I agree me to the graunt made to you, or I am wel content of the graunt made to you &c. but the moze common attournement is to say, sir I attorne to you by force of the same graūt or I become your tenant &c. or to deliuer vnto the grauntee. i. d. ob. or farthing by waye of attournement &c.

Also if a man bee seysed of a manour which manor is parcel in demesne & parcel in service if hee

Attornment.

if he will alien in such maner to another, it behouethe that by force of the aliena^{te} al the ten^{ts} that holde of the alienor as of thys maner &c. attourne to y^e alienor oz other wyse the seruices abide cōtinually in y^e alienor, except tenauntes at will, for it nedeth not the tenants at will attourne byppō such alienaciō &c. for this that the same lāds oz tenements that they hold at will do passe to the aliene by force of such alienaciō.

CAlso if there bee Lord and tenaunt, and the tenaunt letteth the tenements to a man for terme of life the remainder to another in fee, if the lord graunt the seruices to the tenant for terme of life in fee, in this case y^e ten^t for terme of life hath fee in the seruices, but seruices bee put in suspence during his life, but hys heirs shal haue the seruices after his death, and in that case it nedeth not an attornment, for by the acceptance of the dede of him that ought to attorne, this is attornment in hym selfe &c. but when the tenant hath as great and hyghe estate in the tenementes as the lord hath in the seignory, in such case if the Lord graūt the seruice vnto y^e tenat in fee, thys enureth by way of extinguishment. *Causa patet.*

CAlso, if ther be lord & tenant, and the tenant maketh a lease to one for terme of life, sau^{ing} reuer^{sion} vnto him, if the lord graunt the seru^{ice} to the ten^t for terme of life in fee, in this case it behoueth y^e he in the reuer^{sion} attorne to the ten^t for terme of lyfe by force of y^e graunt or otherwise y^e graunt is void, for this that her

Attournement. fo. III

the reuerſion is tenant to the lord.

¶ Also if there be lord and tenant, and the tenant holdeth of the lord by twenty manner of seruices, and the lord granteth his ſeigniorie to another if the tenant paye or doe anye of the ſeruice to the grauntee, this is a good attournement of, and for the ſeruices though that the tenants intent was to attourne but of the ſame parcel, for this that the ſeignoury is an whole thing, though that there be diuers maner of ſeruices that the tenant ought to do.

¶ Also if there be lord and tenant and the tenant holdeth of the lord by many maner of ſeruices and the lord graunteth the ſeruices to another by fyne, yf the grauntee ſue a Scire facias out of the ſame fyne for any parcel of the ſeruices & hath iudgement to recouer this iudgement is a good attournement in the law for al the ſeruices.

¶ Also if the lord of the rent graunteth the ſeruices vnto another, and the tenant attourneth by a peny and after the grauntee diſtrayneth for rent behinde, and the tenant to hym maketh the reſcous. In thys caſe the grauntee ſhall not haue aſſyſe of the rent but hee ſhall haue a wypt of reſcous for that the gyft of the peny was but by way of attournement. But if the tenant had geuen vnto the grauntee the ſaid peny as parcell of the rent or an halfe peny or a ſarthing by way of ſeyſin of the rent, then thys is a good attournement and alſo yf
is

Attournement.

is a good seisin to the grauntee of the rente, & then vpon such rescous the graunte shall haue allise. &c.

Also if a man let tenements for terme of yeeres by force of which the lessee is seised, & after the lord graunteth by his dede the reuerſion to another for terme of life or in taile or in fee, & behoueth him in this case & the tenant for terme of yeeres attorne, or otherwise nothing passeth to such grauntee by such dede, & if in this case & tenant for terme of yeeres attorne to the grauntee, then by & by passeth the franktenement to & grauntee by such attournement woute any livery of seisin &c. for this if any livery shall be made or nedeth to be made in such case, then & tenant for terme of yeeres shalbe at time of the livery of seisin out of his possessiō which shold be against reason.

Also if lande bee let to a manne for terme of yeeres the remainder to another for terme of lyfe reseruing to the lessour a certayne rent by yeare and liverye of seisin is made vpon this to the tenant for terme of yeeres, if he in the reuerſion in such case graunt his reuerſion to another &c. and the tenant that is in the remainder after the terme of yeeres attourneth this is a good attournement, and he to whom the reuerſion is graunted by force of suche attournement shal distrain the tenant for terme of yeeres for the rent due after such attournement though the tenant for terme of yeeres neuer attourned vnto hym, and the cause is for
that

Attournement. fo. 112

that where the reuerſion is dependant bypon the ſtate of franktenement, it ſuffiſeth that the tenant of the franktenement attourne by ſuch graūt of reuerſion &c. & it is to wit, that where a leaſe for terme of yerres or for term of life, or a gift in the taile is made to any mā, reſeruing to ſuch a leſſor or donor certein rent, if ſuch a leſſor or donour graūt his reuerſiō to another, & ſ the tenant of the lande attourne, the rent paſſeth to the graūtee, though in the dede of the graūt of reuerſion, no mēcion is made of the rent, for this, ſ the rent is incident to the reuerſion in ſuch caſe, & not ecounterſo. For if a mā wil graūt ſ rē in ſuch caſe vnto another reſeruing to him ſ reuerſiō of the land, though the tenant attourne to the grauntee, this ſhalbe not a rent ſeek &c.

¶ Also, if a man let lande vnto another for terme of lyfe, and after ſuche leaſe hee confir-
meth by a dede the eſtate of the tenant for
terme of lyfe, the remainynder to another in fee,
and the tenant for terme of lyfe accepteth the
dede, then is the remainder in dede to him to
whom the remainder was geuen or limited
in the ſame dede, for by the acceptaunce of the
tenant for terme of life of the ſame dede this
is a graunt of hym and ſo an attournement in
lawe, but yet hee in the remainynder ſhall haue
no action of waſte nor other benefite by ſuch
remainder, but if that he haue the ſame dede in
his hand, by which the remainder was graū-
ted vnto him, and for this that in ſuche caſe
the

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the tenant for terme of life wil retaine to him the dede, to the entent that he in the remainder shall haue no action of waste against him, for this that he may not come to haue the possession of the dede &c. It shall be good in such case for him in the remainder, that a dede indented be made by him that wil make the confirmation, & the remainder ouer &c. And her that maketh such confirmation deliuer a parte of the Indenture to the tenat for terme of life, & the other part to him that hath the remainder. And then he by the swing of the part of the indenture may haue an action of wast against the tenant for terme of life, and also other aduantage that he in the remainder may haue in such case.

Also, if two ioyntenautes be, which letteth the lande to another for terme of life, peldyng lande to them and their heires a certein rente by yere. In this case if one of the two ioyntenautes in the reuerſion release to the other ioyntenaunt in the same reuerſion, this release is good, and he to whom the releale is made, shall haue onely the rent of the tenaunt for terme of lyfe, and shall haue a wypp of waste against them though hee neuer attourned by force of such release, and the cause is for the priuitie that once was betweene the tenaunt for terme of lyfe, and them in the reuerſion. In the same maner, and for the same cause it is, where a man letteth lande to another for terme of hys life, the remaynder to another

by terme of his life, reseruing the reuerſion to
 the leſſour, in this caſe if he in the reuerſion re-
 lease to him in the remainder &c. and to hys
 heires all his ryght &c then he in the remain-
 der hath a fee &c and ſhal haue a writ of waite
 againſt the tenant for terme of life without a-
 ny attournement of him &c.

Also if a lease be made for terme of yſe the
 remainder into another in the taile, & remain
 heroner to & right heires of & tenant for terme
 of life, in this caſe if the tenant for term of life
 grant hys remainder in fee to another by hys
 dede, & remainder by & by paſſeth by his dede
 without any other attournement. For if any ought
 to attorne in this caſe, it ſhoulde be the tenant
 for terme of life. And it were in vaine & he at-
 torne by his owne grant &c.

Also, if there be lord and tenant, and the te-
 nant holdeth of the Lord by certein rent and
 ſeruyces, if the Lord graunt & ſer-
 uices of the tenant by ſyne, the ſeruyces bee
 ended by in the grauntce by force of the ſyne,
 yet the Lord may not diſtraine for any par-
 t of his ſeruyces without attournement. But
 if the tenant dye his heire being within age,
 the lord ſhal haue the ward of the body of the
 child and of the land &c. howbeit that hee ne-
 ver attourned. For this & the ſeignorie was
 grauntee maintenant by force of & ſyne.

Also in ſome caſe if the ternaunt dye with-
 out heire, the lord ſhall haue the ternauncy by
 writ of Eſchete. In the ſame maner it is yf a

Attournement.

man graunt & reuerſion to his tenant for term of life to another by fyne, the reuerſion paſſeth not to the grauntee by force of the fyne, but the grauntee ſhal neuer haue action of waſt wth out attournement &c. But yet if the tenant ſeize a terme of life aliene in fee, the grauntee may ſue for it &c. for this that the reuerſion was in fee by force of the fine, & ſuch alienaciō was to him by diſinheritance. But in this caſe where a man graunteth the ſeruices of his tenant by fine, the tenant dyeth, his heires being of full age, the grauntee by the fyne ſhal not haue the reſidue nor neuer ſhall diſtaine for the reſidue except there had ben ſome attournement of a tenant that dyed &c. for of ſuche thinges that lyeth in diſtreſſe, vpon the which a writte of *Replegi* may be had are ſuch &c. a man ought to auoyd & taking of ſuch good and righteous &c. there ought to be an attournement of the tenant. Now be it that the grauntee ſhall diſtreſſe ſuch ſeruices be by fyne. But to haue waſt wth out attournement of landes and tenementes ſo holden during the term of the heire or them to haue by waſt wth out ſeizure of eſchete, there needeth not anye diſtreſſe but an entre in the lande by force of the right, & of the ſeignoury that the grauntee hath by the force of the fyne.

Alſo in auncient Boroughes or Cities where tenements wthin the ſame borough or cities beene diſpoſable by teſtament by the cuſtome and the uſe &c. if in ſuche borough or cities a man bee ſeiſed of rent ſervice or of any charge, and he deuyleth ſuch rent or ſervice

another by his testament & dyeth &c. In this
case he to whom the devise is made may distrain
for the rent or the services behynd, howbeit the
tenant neuer attourned. In the same ma-
ner it is where a man letteth such tenements
devisable to another for tearme of life, or for
terme of yere, & deuised by reuerſion by his te-
ſtament to another in fee or in fee taylor and
dyeth, & anone after the tenant maketh waſt
to whome the devise was made ſhal haue a
ſuit of waſt, howbeit the tennaunt neuer at-
toured, & the cauſe is for this by the will of the
deuiſor made by the teſtament, ſhalbe perſor-
med after the intent of the deuifour, & ſo the effect
of this ſpeth vpon the attourning of the tennaunt
Then percaſe the tenant woulde neuer at-
toure, then the will of the deuiſour ſhoulde
neuer be perſormed, and therefore the deuife
ſhall diſtraine or haue an action of waſte &c.
without attournement, for if a man deuife ſuch
tenements to another by his teſtament (ha-
bing ſibi imperpetuum) and dyeth, and the
deuife entreteth he hath a fee ſimple, cauſa qua
ſibi, & yet if a dede of feoffment were made
to him by the deuiſour of the ſame tenements
habendum & tenendum ſibi imperpetuum)
quere and ſeyſyne were neuer thereupon
made, hee ſhall haue none eſtate but for terme
of years &c.

Alſo if a man ſeyſed of a Manor whiche
is parcell in demeane and parcell in ſeruy-
ce and thereof bee dyſſeyſed but the tennaunt
30. li. Which

Attournement.

which holdeth of the manour, neuer attourneth
to the disseisour in this case, howbeit þ the
seisour dye & c. & his heir is in by descent, yet may
the disseisour distrain for the rent being behynd
& haue the seruice, but if the tenants cometh
disseisour & say we become your tenants &c.
oz otherwile make attournement to him &c.
& after þ disseisour dyeth seised & c. then þ disseisour
may not distrain for the rent, for this, for
the maner descendeth to the heire of the disseisour.
But if one holde of mee by rent seruice
which is a seruice in grosse, & another that
right hath, claimeth the rent & receiueth & taketh
the same rent of my tenant by cohercion
distresse oz by other fourme & so disseiseth me
by taking such rent, howbeit þ such a disseisour
dye seised by such taking of the rent, yet after
his death I maye wel distrain for the same rent
being behynd beefore the death of the disseisour
& after his death, & the cause is this, þ such
not my disseisour but by election at my will,
howbeit that he tooke the rent of the tenant
may at all tymes distrain my tenant for þ rent
behynd & c. so it is to me but as if I wold take
the ternaunt to bee by, so muche tyme behynd
of payement to mee of the same rent, for the
payement of my ternaunt to another to whom
hee ne ought to paye is no disseisour to mee
shall not putt mee out of my rente wpyth
my will and election, for howebeyt that
maye haue assise againste suche a taker &c.
this is at my election if I wold take hym

my disseisour, or not so that suche discentes of rents in gosse ne putteth not out the lordes fro their distresse, but that at eche time they maye well distrayne for the rent behinde, and in this case if after the decease of him y so wrongfully take the rent. I graunt by my deede the seruices to another, & the tenaunt attorneth, this is good inough, and the seruices by such grafit & attornement incontinent be in the grauntee &c. But other wise it is wher the rent is parcel of the manour, and the disseisour dieth seised of y whole manour, as in the case beforesayd.

¶ Discontinuance. Cap. xj.

Discontinuance is an aunciente woorde in the law, and hath diuers significations &c. but as to one entent it hath such a significatiō, that is to say, where a man hath aliened to another certayne landes or tenementes, & dieth, and another hath righte to haue the same landes or tenementes, but hee ne maye enter in them, bicause of suche alienacion &c. As yf an abbot seised of certayne landes and tenementes dieth, and hee alieneth the same landes and tenementes to another in fee or i taylor, or for term of yeres, and the abbot dieth, his successour may not enter in the same landes and tenementes, wherbeit, that if that he hath right to haue the same landes or tenementes, hee maye sue in the ryghte of the house, but hee is put to an action to recouer the same landes or tenementes which is called a writ de ingressu sine assensu

Discontinuance.

assensu capituli.

Also if a man seysed of lande as in the right of hys wyfe &c. and therof enseoffeth an other &c. and dyeth, the wyfe may not enter, but she is put vnto hir action the which is called. *Cui in vita.*

Also if tenant in the taile of certayne lande thereof enseoffe another &c. and hath yssue and dieth &c. his issue maye not enter in the lande, howbeit that hee hath righte and title to that, but that he is put to his action, that is called a *Formedone in the discender.*

Also if there be tenant in the tayle & the reuerſion is to the donoure & to his heires if the tenat make a scoffemēt &c. and dieth without issue, hee in the reuerſion may not enter, but is put to his action of *Formedon in the reueter*, & in the same maner it is wher the tenant in the tayle of certayn land where the remainder is to another in the taile, or to another in fee, if the tenant in the tayle alieneth in fee, or in the taile &c. & after dieth without issue, they in the remaynder may not enter, but be put to there *ſuyt of formedon in the remainder* &c. and for this that by force of such scoffemēt & such alienacions in the cases aforesayde, & in like cases they which haue title & right after the death of such a feoffor or alienor may not enter, but be put to their actiōs vt *ſupra*. Therfor such scoffemēts & alienaciōs be called *discontinuances*.

Also if a tenant in the taile be disseysed, & be releaseth by his dedde to the disseisour & to his

heires

Discontinuaunce. fo. 116

heires of the right & he hath in the same land,
this is no discontinuaunce, for this & nothing of
right passeth to the disseisour but for terme of
life of & tenaunt in the taile & made the release
etc. But by the feoffement of tenant in the taile
a fee simple passeth by the same feoffement by
force of liuerpe of seisin etc. but by force of a re=
lease nothing passeth but the right that he may
lawfully & rightfully release without hurt or
damage to other persones which thereto haue
right after his decease etc. & so it is a great dy=
uersitie betwene a feoffement of the tenant in
the taile & a release of the tenaunt in the taile.
But it is said that if tenant in the taile in this
case release to the disseisour & bindeth him and
his heires to warrauntise etc. & dyethe, & thys
waranty descendeth to his issue, then that is a
discontinuaunce because of warrantise etc. But
if a mā haue issue a sonne by his wife & dieth,
& after he taketh another wife, & & tenements
be given to him & his second wife, & to & heires
of their two bodies engendred, & they haue is=
sue another sonne, then the second wife dieth,
& after the tenant in the taile is disceased, & he
releaseth to his disseisor al his right etc. & bin=
deth him & his heires unto warrantise, & dieth,
this is no discontinuaunce to the issue in the
taile by the second wife, but he may wel enter
etc. for this that the warrauntise descended to
his elder brother, that his father had by hys
first wife.

In the same maner wher tenements be descen=
D. iiij. dable

Discontinuaunce. ¶

dable to the yonger sonne after the custome of
borough English be entailed &c. & the tenant
in the tail hath issue two sonnes & is disseised
& he releaseth to his disseisor al his right with
warrantise & dieth, y yonger sonne may enter
vpon the disseisor notwithstanding the warrantise,
for this y the warrantise descendeth to the
elder sonne, for alway the warrantise descendeth
&c. to him y is heire by the comon law.

¶ Also, if an Abbot be disseised, and he releaseth
to the disseisor with warrantise, this is
no discontinuance to his successour, for this
nothyng passeth by this release but the right
that he hath during the time that he is Abbot
and this warrantise is expired by his priuatisi-
on or by his death.

¶ Also, if ternaunt in the taile be seysed of cer-
taine lande, and hee letteth the same land by
terme of yeres, by force of which lease the les-
see is in possession, to whiche possession the ter-
naunt in the taile by his deede releaseth al his
right that he hath in the same lande to the les-
see and to his heires for euer, this is no discon-
tinuance, but after the decease of the ternaunt
in the taile, his issue may well enter, for this
that by suche release nothyng passeth but by
terme of life of the tenant in the taile. In the
same maner if the tenant in the taile confirme
y estate of the lessee for terme of certayne yeres
to haue and to holde to him and to his heires,
this is no discontinuance, for this that no-
thyng passeth by suche confirmation, but the
estate

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estate & the tenaunt in the taile had. for terme of his life.

¶ Also, if a tenant in & taile by his dede grāts to another al his estate & hee hath in the tene-ments entailed to him, to haue & to hold al his estate to the other & to his heirs for euer, & de-livereth seisin accordinge. In this case the te-nant to whom the alienacion was made hath pone other estate but for term of life, of & tenāt in taile & so it may wel be proued & the tenant in & tail may not grant ne alien ne make anye rightfule estate of & frākteneht to another plō but for terme of his own life &c. For if I geue certain land in the taile to a man, sauing & re-uerſion to me, & after the tenant in the tail en-fooffeth another in fee, the feoffee hath no right estate in the tenelements for two causes. One is for that & by such feoffement my reuerſiō is diſ-continued which is a wrong act & not a right ful act. Another cause is, if the tenant dye and his iſſu ſueth a writ of Formedon against the feoffee, the writ ſhal ſay & alſo the declaracion & feoffee wrongfully him deſorced, therfore if wrongfully he hi deſorced he had no right estat

¶ Also, if lande bee let to a man for terme of his life, the remainder to another in the taile if he in & remainder will grant his remainder to another in fee by his deede, & & tenāt for term of life attourneth, this is no diſcontinuance of the remainder.

¶ Also if a man bee tenannt in the taile of aduowſon in groſſe or of cōmon in groſſe, if he
by his

Discontinuaunce.

by his aduowson in !grosse oz of common in grosse, if he by his dede wil graūt & aduowson oz the cōmon to another in fee, this is no discontinuance for in such case the graunter hath no estate but for terme of the tenant in the tail & made this graunt &c. Note well that suche things as passe by way of grāt made by dede, & not by act in the countrey &c. such graūt maketh no discontinuance as in the case aforesaid & other like cases &c. And howbeit that suche thigs be graūted in fee, by fine leuied in & kinges court &c. yet they make no discōtinuāce &c.

¶ Also, if a man bee seised in taile of landes deuisable by testament &c. & he deuise it to an other in fee, and dyeth, & the other entreth, this is no discontinuance, for this that no discontinuance was made in & life of the tenant in the taile &c.

¶ Also, if an abbot haue a reuerſion oz a rente seruite, oz a rent charge, and will graunt that reuerſion, rent seruite, oz rente charge to another in fee, & the tenant attorneth &c. this is no discontinuāce. In the same maner it is wher an Abbot is seyled of aduowson oz of suche things that passe by way of graūt without liuery of seisin &c.

¶ Also, if there bee graundfather, tenant in the taile, father and sonne, and the graundfather is disseised by the father, and the father maketh a feoffement in fee without warrantise and dieth, and after the graundfather dyeth, the sonne may well enter vpon the feoffee for

for this that this was no discōtinuance, in so much ꝑ the father was not seised by force of ꝑ tale at the time of the feoffement &c. but was seised in fee by disseisin made to ꝑ graūfather.

¶ Also if a woman inherite haue an husband within age, whych maketh a feoffement of the tenementes of the wife and dyeth, it hath been questioned if the wife may enter oꝝ not. And it seemeth to some men that the entre of the wife after the deathe of hir husband shalbee iswfull in thys case, for when hyꝝ husband made suche a feoffement &c. hee might well enter notwithstanding suche feoffement during the couerture, and hee mighte not enter in his owne righte but in the right of his wife &c. Ergo such righte that hee had to enter in the ryghte of his wife &c. that right of enter abyeth to the wife &c. after his decease, and it hath been sayde that if two ioyntenauntes beinge within age made a feoffement in fee & one of the childzen dieth, & the other suruiuethe, in so much that both childzen myghte enter ioyntly in their lyues, thys righte of entre groweth all to him that suruiuethe, and so he may enter into the whole &c.

¶ Also the heyre of the husband that made the feoffement within age maye not enter, for this ꝑ no right descendeth to such an heire in the case aforesayd, for thys that the husband had neuer any thing but in the right of his wife. And also when a chyld makethe a feoffemente beinge within age this shal neuer grieue nor hurt him but that he may wel enter &c. And this should
bee

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be agaynst reason that such a feoffment made by him that was not able, to make such a feoffment shal grieue oz hurte other to toll other of thepze entreses &c. And for these causes it seemeth to som that after þe death of suche an husband so being within age at the time of the feoffment &c. that his wife may well enter &c.

¶ Also if a woman inheretrix taketh an husband and hath issue a sonne & the husband dieth, & she taketh another husband, and that seconde husband letteth þe land that he hath in þe right of his wife to another for terme of his life, and after the wife dieth & after the tenat for terme of life surrendzeth his estate to the second husband &c. Enquire if the sonne of the wife may enter oz not, in this case bpō þe second husband during the lyfe of the ternaunt for terme of life, But it is clere lawe in thys case that after the death of the ternaunt for terme of life, the sonne of the wyfe may well enter, for this that þe discontinuance that was made alonely for terme of lyfe is determined &c. by the death of the same tenant for terme of life &c.

¶ Also if the parson oz vicar of a church aliene certayne landes oz tenementes parcell of hys glebe &c. to another in fee & dieth, oz resignethe &c. his successour may wel enter, not withstandinge suche alienacion as it is sayd in a Nota, Anno. ij. h. 4. Termino Mich. quod sic incipit. Nota quod dictum fuit pro lege. In a writ of Accompte brought by the master of the college, þe if a pson oz a vicar graūt certain lāds that

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that is of the right of his churche to another & dieth or chaūgeth & his successor may enter. And I trow & cause is for this & the parſon or bycar & is leised &c. in right of the church hath no right of & see simple in & tenements & & right of the see simple thereof abyde in anye other pson. And for this cause his successor maye wel enter, notwithstanding such alienaciō &c. for a Bishop may haue a writte of right of tentes of right of his Bishopricke for this & the right of see simple abyde in him & in his chapter, & a Deane may haue a writte of right &c. for this & the right abyde in him & his chapter and an Abbot may haue a writte of right, for this that the right abyde in him & in his couent, & sic de aliis casibus consimilibus &c. but a parſon or a bycar may not haue a writ of right &c. but & highest writ & they maye haue, is a writte de Juris dicitur, the which is a greate prooffe & the right of see simple is in abeyance, that is to say alonely in the remembrance, entendement and consideration of the law, for mee seemeth that such a thing in such a right that is sayd in dyuers bookes to be in abeyance is as much to saye in latine *D. talis res vel tale rectum que vel quod non est in homine adtunc superstitie, sed tantummodo est & consistit in consideratione & intelligentia legis &c. & quidā alii dixerunt talē rem aut tale rectū fore in nubib⁹ &c.* But I suppose & they vnderstā by these wordes in nubibus &c. as I haue said before. Also if a person of a Church dye, now the frank-

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franktenement of the glebe of the personage is in no man duringe the time y^e the personage is void, but is in abeyance, y^e is to say, in consideration & intelligence of y^e lawe, til another be made pson of the same Church, & immediately when another is pson the franktenement in deede is to him as successeur.

Also some men peradventure wil argue & say, y^e in so muche y^e the parson & thassent of y^e patrone & Ordinary, may grant a rent charge out of the glebe of his personage in fee, and so charge the glebe of the personage perpetually. Ergo they haue fee simple, or twoe or one of the hath fee simple at y^e least &c. So this it may be answered y^e it is a principle in lawe, that of euery land there is a fee simple in some man or els the fee simple is in abeyance &c. And another principle is, y^e euery land of fee simple &c. may bee charged with a rent charge in fee, by one waye or by another &c. and when suche rent is graunted by the deede of the person, the patrone and the Ordinary in fee, none shall haue no preiudice nor losse by force of suche graunt. But the grantours in their lyues, & the heire of the patrone, and successeur of the Ordinary after their deceases, and after suche charge yf the person dye, hys successeur maye not come to the said Church to bee parson of the same church by the lawe. But by presentment of the patron and admission and institution of the Ordinary &c. And for thys cause it behoueth that the successeur hold him content
and

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and agreed with that which his patron & Ordinary lawfully haue don before. But if cause of such rent charge is gone for this, is if they which had entries in the saide church, is to say, the patron after the law temporall, & the Ordinary after the law spiritual, were assented as parties vnto such a charge &c and this seemeth the very cause if suche glebe maye bee charged in perpetuities &c.

¶ Also if a Bishop alyan landes which beene parcel of his bishopricke, & dieth, this is a discontinuance to his successor, for this, that he may not enter, but is put to his writ De ingressu sine assensu Capituli &c.

¶ Also, if a Dean alien lande parcell of hys Deanry & dyeth, his successor maye not enter, but he may haue a writ de ingressu sine assensu Episcopi & capituli &c.

But if the Deane & the Chapter haue lād to the & to their successors in common &c. Howbeit if the Deane alien such landes his successors may wel enter, for this that the franktenement at the time of the alpenacion, was as wel in the Chapter as in the Dean. But wher the Deane ys sole seysed as in ryght of hys Deanry, then such alienacion is discontinuance to his successor, as it is aforesaid. Also some men wil argue and say, that if an Abbot & his couent bee seised in their demeane as of fee, of certaine land to them and to their successors &c, and the Abbot without assent of hys couent alpenethe the same lande vnto another, and

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¶ Byeth, this is a discontinuance to his successors &c. & by the same they wil say, & where a Deane & a Chapter be seised of certein lād to thē or to their successors, if the Deane aliē the same lāds &c. this shalbe a discontinuance to his successors. So & his successor ne maye not enter &c. To this may be answered, & there is a great diuersitie betwene & saide two cases, for whā an Abbot & the couent be seised &c. yet if they bee disseised, the Abbot shal haue assise in his own name wout the naming of hys couent &c. And if a man may or will sue a *Præcipe quod reddat* of the same landes whē they be in the hands of the Abbot and hys couent, it behoueth that such an action be sued against the Abbot onely without namyng of & couent &c. for this, that al they be dead persons in the law, saue only the Abbot & is soueraigne &c. & thys is cause of the soueraintrie &c. for els he should be as one of & other monks of the Couent &c. But the Deane & the Chapter be no dead persons in the law &c. For eche of them may haue an action by him self in diuers cases and of such landes or tenementes whyche the Deane and Chapter haue in common &c. yf they be disseised, that the Deane & the Chapter shal haue assise, & not the Deane alone, & if another wil haue an action real of such lād or tenementes against the Deane &c. it behoueth him to sue againste the Deane and Chapter, & not against the Deane alone &c. & so appeareth great diuersitie betwene these two cases.

¶ Als

¶ Also if the maister of an hospitall discontinue certain land of his hospitall, his successors maye not enter, but hee is put vnto his writte De ingressu sine assensu confratru & sororum suarum, & al such writs do plainly appere in þe Register &c.

¶ Remitter. Cap. xij.

Remitter is an auncient tearme in the law, and it is where a man hathe two tytles to lands or tenementes, & is to saye, one of an elder tytle, and an other of the latter tytle, and hee cometh to the land by the latter tytle, yet the lawe adiudgeth him to be in by the force of the elder tytle, for this that the elder tytle ys þe more sure tytle, and the more woorthy tytle, & then when a man is iudged in by force of the more elder tytle, thys is vnto him sayde a Remitter, for this that the lawe shall admyt hym to bee in the lande by the elder tytle, as yf the remaunt in the taile discontinue the taile, and after he disseyleth his discontinue, and so dieth disseised, wherby the tenementes discende to hym as to his cosin inheritable by force of the taile, in this case this is to him to whom the tenementes discende whiche hathe ryght by force of the taile, a Remitter in the taile taken, for that, that the lawe shall put and adiudge hym to bee in by force of the taile, whiche is his elder tytle, for if hee shall bee in by force of dysseise, then the discontinue maye haue a writ of Cure vppon the disseisin in the Ver againste hym.

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him, and recover the tenementes, and his damages, but in so much that hee is in by force of the taylor, the taylor and the interest of the defendant, is all utterly annulled and defeated &c.

C Also if tenant in the taylor enfeoffe in fee his sonne or his cosin inheritable by force of the taylor, the which sonne or cosin at the time of feoffement is within age, and after the tenant in the taylor dyeth, and hee to whom the feoffement was made is his heire by force of the taylor in the taylor, this is a Remitter to the heire in the taylor, to whom the feoffement is made. For howbeit that during the life of the tenant in the taylor that made the feoffement, such heire shalbe adjudged i by force of the feoffement, yet after the death of the tenant in the taylor, the heire shall bee adjudged in by force of the taylor &c. & not by force of the feoffement, and though that such an heire was of full age at the time of the death of the tenant in the taylor that made the feoffement, this maketh no matter yf the heire were within age at the time of the feoffement made to him, and if such an heire being within age at the time of the feoffement cometh to full age, leaving the tenant that made the feoffement, & so being of full age, hee chargeth by his deed the same land with a comon of pasture, or with a rent charge, and after the tenant in the taylor dyeth. Nowe it seemeth that the land is discharged of an other estate in the land then hee was at the time of the charge made,

so much that he is in his remitter by force of \bar{y} taile, and so the estate \bar{y} he had at the tyme of the charge is utterly defeated &c.

¶ Also a principal cause is why such an heire in \bar{y} cases aforesaid, and other cases semblable shalbe said in his remitter, is for this, \bar{y} there is no pson against whom that hee may sue his wyte of Formedon, for againste him selfe hee may not sue, & he maye not sue against none other, for none other is tenaunt in \bar{y} franktenement, & for that cause \bar{y} lawe adiudged him in his remitter \bar{y} is to say i such plight as he had lawfully recouered \bar{y} same lād agāiſt another.

¶ Also if land be tailed to a man and hys wife, and to the heire of their two bodyes engendred the which haue issue a daughter, and the wyfe dyeth, and the husband taketh another, and hath issue another daughter, & dycontinuethe the taile, and after he disseiseth the discontinue, and so dyeth seised, now the land descendeth to the two daughters, in thys case as to the elder daughter that is inheritable, this is a Remitter but of the halfe, and as to the other halfe, she is put to her adion of Formedon against her sister, for in this case two sisters be not tenants in percenary, but bee tenants in comon, for this \bar{y} they bee in by dyuers tytles, for the one sister is in her remitter by force of the taile, as to that that by her belongeth. And \bar{y} other sister is in as to that, that belongeth to her in fee simple by the descent of her father. In the same maner it is

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if the tenant in the taile enfeoffe his heyre apparaunt in the taile being the heire Within age, & another ioyntenant in fee, & the tenaunt in the taile dyeth. Now the heire in y taile is in his remitter as to the halfe, & as to the other half he is put to his writ of Formed &c.

¶ Also if tenant in the taile enfeoffe his heyre apparant, y heire being of full age at tyme of y feoffement & after the tenant in taile dyeth thys is no remitter to the heire, for this y it was his own folly, that he being of full age would take such feoffement &c. But such folly may not be adiudged in the heire being within age, at the tyme of the feoffement &c.

¶ Also if tenant in the taile enfeoffe a woman in fee and dyeth, and his issue within age taketh the woman to wife, this is a remitter to the chylde, and the wyfe then hath nothing, for this that the husbände and the wyfe beene but one person in the law. And in that case the husbände maye not sue a writ of Formedone, vnlesse hee wyll sue it agaynst hym selfe, the whyche shalbee inconuenient, and for that the lawe iudgeth the heire in hys remitter for this that no follye may bee areted to hym being within age at the tyme of the spousalles &c. And if the heire be in his remitter by force of the taile, it followeth by reason that y wife hath nothyng &c. for in so muche that the husbände and the wife be but one person, the lande maye not bee scuered by halves, and for suche cause the husbände is in his remitter of the

the whole. But other wise it is. if such an heire be of full age at the tyme of the sponſayles, then the heire hath nothing but in the right of his wiſe.

¶ Also if a woman ſeiſed of certeine lande in fee, taketh an husbände, the whiche alieneth. & ſame lande to an other in fee, and the aliene letteth the ſame lande to the husbände and the wyfe for terme of theire twoe lyues, ſauynge the reuerſion to the leſſoure, and to the heire, in this caſe the wyfe is in her remitter, and ſhee is ſeiſed in deede in her demean as in fee, as ſhee was befoze, for this that the taking of eſtate ſhalbe adiudged in the law the deede of the husbände, and not the deede of the wiſe, ſo that no follie may bee iudged in the wiſe that is couert in ſuch caſe. And in this caſe the leſſor hath nothing in the reuerſion for this that the wiſe is ſeiſed in fee. But in this caſe if the leſſor wil ſue an action of waſt againſte the husbände and his wiſe, for this that the husband hath made waſte, the husband maye not barre the leſſor for to ſhewe this that the taking of eſtate made vnto hym and to his wyfe made a Remitter to his wiſe, for this that the husband is ſtopped to ſay this againſt his ſeoffement and one reſciſſell of eſtate for terme of lyfe to hym and his wiſe, and yet the leſſor hath no reuerſiō, for this that the fee ſimple is in the wiſe, ſo a man may ſee a matter in this caſe, that a man ſhallbee ſtopped by a matter in deede, though he no wytinge by deede inden-

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ted or otherwise be thereof made. But yf in action of waste the husband make defaulte at the graunde distresse, and the wyfe prayeth to bee receiued, and is receiued, shee shall wel shew all the matter, and how shee is in her remitter, and shall barre the lessoure of his action. For in euery case that the wyfe is receiued for default of her husband, shee shal plede and haue the same aduauntage in pleading as she were a woman sole. And howbeit that the attence made no lease to the husbände and hys wyfe by dedde endented, yet this is a remitter to the wyfe, and though the alperne yelded the same lande to the husbände and his wyfe by fine for terme of their liues, yet thys is a remitter to the wyfe, for this that the wyfe couert that taketh estate by fine shall not be examined by the Iustices. And here note well that when anye thing shall passe fro the wyfe that is couert of husbände by force of a fine the husband & his consaunce of right to an other &c. or make a graunt & yelded to an other or lease by a fine to an other. Et sic de similibus where the right of the wyfe passethe from the wyfe by force of the same, the wyfe in all suche cases shalbe examined before y the fine be accepted. And such fines cōclude such wyues couert for euer. But wher nothing is moued in y fine, but al onely y the husbände & the wyfe take estate by force of the same fine, this shall conclude the wyfe for this y in suche case shee shal neuer be examined.

Also, if tenaunt in the taile discontinue the taile, & hath a daughter & dyeth, & the daughter being of full age taketh an husbande, & the discontinue maketh a lease of thys to the husband & his wife for terme of their lyues, thys is a remitter in dede of the wife, & the wyfe is in by force of the taile, *causa qua supra*.

Also if land bee geuen to the husband & hys wyfe to haue and to holde to them and to the heires of their two bodys begotten, and after the husband alpeneth the land in fee, & taketh agayn an estate to hym & to his wife for terme of their two lyues. In this case thys is a Remitter in dede to the husbande and the wyfe nauer the husband, it may not be a remitter to y^e wife, except it be a Remitter to y^e husband for this that the husband & his wife be but one persone in the law, though that the husband is stopped to claime this to be a Remitter in him againste his alienacion and his owne repyseil as it is aforesayde.

Also, if land be geuen to a woman in y^e taile, the remainder to another in the taile, y^e remainder to the third in the taile, the remainder to y^e fourth in fee, & the wife taketh an husbande & the husband discontinueth the lande of y^e wyfe by this discontinuance all the remainders be discontinued, for if the wyfe dye without issue, they in y^e remainder shal haue no remedy, but to sue their writs of *Forcedon* in the remainder whan they come to their tyme &c. But if after such discontinuance, estate bee made to

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the husband and his wife for terme of theyr liues, or for terme of anothers life, or an other estate &c. for this, that this is a Remitter to the wife, this is a Remitter to all those in the remainder &c. For after thys that the wife that is in her Remitter dieth without issue, they in the remainder may enter &c. without anye action or suite &c. In the same maner it is of those whiche haue the reuerſion after ſuche taille &c.

¶ Also, if a man let a house to a woman for tearme of her lyfe, ſauing the reuerſion to the leſſoure, and after one ſueth a ſaynte and ſhall action agaynſt the woman, and recouereth the house againſt her by defaulte, ſo that the woman may haue againſt him a writ *Quod ti deforſeat*, after the ſtatute of Weſtmiſter the ſeconde, Cap. iij. nowe is the reuerſion of the leſſour diſcontinued, ſo that hee ne maye haue no action of waſte. But in this caſe if the woman take an husband, and hee that recouereth letteth the house to the husbände and his wyfe for terme of their two lyues, the wife is in her remitter by force of the firſt leaſe. And yf the husbände and the wife make waſte, the firſt leſſour ſhall haue agaynſt hym a writ of waſte for thys, that in ſo muche that the wyfe is in her remitter, hee is remitted to hys reuerſion. But it ſeemeth in thys caſe if he that here cometh by the ſhall action, will bypunge an other writ of waſte againſt the husbände and hys wyfe, the husbände hath no remedye agaynſt hym, but to make default at the great diſtreſſe &c.

¶ And to cause þe wyfe to be disceined & to plede þe matter agaynst þe secōd lessour, & to swere þe acciō by which he recovered was false & fayned in the law, & also the wyfe may barre &c.

¶ Also if the husband discontinue the land of his wife, and after taketh estate to him and to his wife, & to the third man for terme of their lyues, or in fee, this is a Remitter to þe womā but as to the moiety. And as for the other moiety it behoueth her after þe death of her husband to sue a Cui in vita.

¶ Also if the husband discontinue the lande of his wife, and goe ouer the sea, and the discontinue let the same lande to þe woman for terme of lyfe, and deliuer to her seisine, and after the husband commeth and agreeth to that lyuerp of seisine, this is a Remitter to the womā, and yet if the woman had been sole at that tyme of her lease made to her, this shoulde bee to her a Remitter, but in so muche as shee was couert baron at the tyme of the lease, and the liuery of seisin made to her, though that shee onely take the lyuerp of seisine, this was a Remitter to her, because a woman couert shalber adindged as an infant wythin age, in suche case &c. Enquire in thys case, yf the husbāde when hee commeth agayne will disagree to the lease and lyuerp of seisin made to hys wyfe in hys absence, yf this shal put the woman from her remitter.

¶ Also, if the husbāde discontinue the tenementes of hys wyfe, and the dyscontinue is
dis=

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disseised, and after the disseisour letteth & saide tenements to the husband and his wyfe for terme of yse, this is a remitter to the wife, but yf the husband and the wyfe were of counseil or consent that the disseisine shoulde bee made, thā it is no remitter to the wyfe, because shee is a disseisouresse. But if the husbāde were of counseil and consent to the disseisine, and not & wyfe, then such lease made to the wyfe is a remitter, because that no default was in the wyfe.

¶ Also, if such a discontinue had made estate of freeholde to the husband and the wyfe made by indenture vppon condicion S. reseruing to the discontinue a certein rent, and for default of payment a reentre, & because that the rente is behynde, the discontinue entreteth of this rent, the woman shall haue assise of Nouel disseisin after the deathe of her husbāde agaynste the dyscontinue, because that the condicion was wholly adnulled, in so muche as & woman was in her remitter, yet the husband with his wyfe could not haue assise because the husbāde ys stopped.

¶ Also if the husbāde discontinue the tenementes of hys wyfe, and taketh estate agaynste for terme of hys yse, the remainder after hys disseale to hys wyfe for terme of her yse, in thys case thys is no remitter to the wyfe duringe the yse of her husbāde, because that duringe the yse of the husband, the wyfe hath nothing in the freeholde, but yf in thys case the wyfe ouerliue the husbāde, this is a remitter

to the wife because þ a frechold in law is fallē
 vpon her manger her wil, & in so much þ shee
 can haue no adion against none other person,
 & against her seife she can haue no adion, ther-
 fore shee is in her remitter. For in this case
 though þ the woman enter not in the tenements
 yet a straunger that hath cause to haue adion
 may sue his adion against the woman of the
 same tenements because she is tenant in lawe
 though shee bee not ternaunt in dede, for te-
 naunt of franktenement in dede is hee, that if
 he bee disseised of franktenement mape haue
 assise, but the tenant in the law before his en-
 tre shal haue noe assise, & if a man seised in fee
 of certein land hath issu a sonne which taketh
 a wife, & the father dieth seised, & after þ sonne
 dieth before anye entre made by him into the
 land, þ wife of the sonne shall bee endowred in
 the land, & yet he had no franktenement in the
 dede, but he had a fee & a franktenement in law
 & so note þ a precipe qd reddat may as wel be
 mainteined against him þ hath the franktenc-
 ment in lawe, as against him þ hath franktenc-
 ment in dede.

¶ Also if a tenant in the taile haue issu two
 sonnes of full age, and hee letteth the tailed
 lande to the elder sonne for terme of his lyfe,
 the remaynder to the yonger sonne for tearme
 of his lyfe, and after the ternaunt in the taile
 dyeth In this case þ elder sone is not in his re-
 mitter because he toke estate of his father, but
 if þ elder sonne die without issue of his body the
 this

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this is remitter to the ponger brother because hee is heire in the taile and a franktenement in lawe is fallen vppon him by force of the remainder, and there is none against whom he may sue his action &c. In the same maner it is where a man is disseised and the disseisour dyeth therof seised, and the tenements descend to his heire & the heir of the disseisour maketh a lease to a man of the said tenements for terme of life the remainder to the disseisor for terme of life or in tail or in fee, & the tenant for term of life dyeth. Now this is a remitter to the disseisour &c. *Causa qua supra.*

¶ Also if tenant in the taile enfeoffe his sonne and an other of the tailed lande in fee, and livery of seisin is made to the other accordinge to the dede, the sonne not knowinge thereof, nor agreeing to the feoffement, and after hee that tooke the livery of seisin dyeth, and the sonne occupieth the lande nor taketh any profite of the lande duringe the lyfe of hys father, and after the father dyeth, now this is a remitter to the sonne, because the freeholde is fallen vppon hym by the surmountour and no default was in him, because hee neuer agreed &c. in the life of his father, & there is none against whom he may pursue his writ of Formedon &c. For if a man be disseised of certeine lande, and the disseisour maketh a dede of feoffement, whereof he enfeoffeth B. C. & D. And the livery of seisin is made to B. and C. but D. was not at the livery of seisin nor ne-

uer agreed to the feoffement nor neuer would
take the profits &c. And after B. & C. dye, and
D. ouerlyueth them, and the disseisin bringeth
his writte, sur disseisin in the Per against the
same D. he shal shew al þ matter & how þ he
neuer agreed to the feoffement, and so he shall
discharge him self of dammages so that the de-
mandant shal recouer no damage against him
though that he be tenant of franktenement of
the land. And yet þ statut of Gloucester wil þ
the disseisyn shal recouer dammages on a writte
of entre grounded bypon the nouel disseisin a-
gainst him that is found tenant. And thys is
a proofo in the other case that in so muche as þ
issue in the tale commeth to the franktenement
not by his deede nor by his agreement but af-
ter the death of his father this is a remitter
to him, in so much that hee can sue an action of
formedon against none other person.

Also if an Abbot alpen the lande of his
house to another in fee, and the alpene by hys
deede chargeth the lande with a rent charge in
fee, and after the alpene enfeoffeþ þ Abbot &
lycencce to haue and to holde to, the Abbot and
hys successours for ever, and after þ abbot dy-
eth. and another is chosen & made Abbot. In
this case the abbot that is the successour, and
his couent be in their remitter, and shall holde
the land discharged, because that the same ab-
bot cannot haue any accion of this writ of en-
tre sine assensu capituli of þ same lāds against
none other personne. In the same maner it is
where

R emitter.

Where a bishop or deane or other such persons
alyn &c. without assent &c. And after the Bi-
shop taketh estate againe of the saide lande by
lycencce to him, and to his successours, & after
the Bishop dyeth his successoure is in hys re-
mitter as in the right of his church, & shal de-
fete the charge &c. *causa qua supra.*

¶ Also if a man sue a false action against te-
naunt in the taile, as if a man will sue against
him a writ of Entre in the post, supposynge
by his writ that the tenaunt in the taile had
not his entre but by A. of B. that disseised
his graundefather of the demaundaunt, and that
is false, and hee recovereth against the tenant
in the taile by defaulte, and sueth execution,
after the tenant in the taile dieth, his issu may
haue a writ of Formedō against him that re-
covered and if hee will pleade the recovery a-
gainst the tenaunt in the taile, the issue maye
saye that the saide A. of B. disseised not the
graundefather of hym that recovered in the
maner as hys writ supposeth and so he shall
falsifye his recovery. Also suppose that that
was true that the saide A. of B. disseised the
graundefather of the demaundaunt that reco-
uered, and that after the disseisin the demaun-
dant or his father, or his graunde father, by a
decree had released to the tenaunt in the taile all
right that he had in the lande &c. And this not
withstanding he sueth his writ of entre in the
post against the tenant in the taile in the maner
as is aforesaide, and the tenaunt in the taile
ple-

pledeth to him, that the sayd **J.** of **B.** disseised
 not his grandfather as his writ suppoſeth, and
 bypon thys theye bee at pſſue, and the iſſue is
 founde for the demaundant, wherby hee hath
 iudgemēt to recouer, and ſueth execution, and
 after the tenant in the talle dieth, his iſſu may
 haue a writ of **Forimdone** againſt him that re-
 couered. And yf hee will plede the recouerye
 by accion tryed againſte his father tenaunte in
 the talle, then hee may ſhewe and plede the re-
 lease made to his father, and ſo the accion that
 was ſued was ſaint in the lawe &c. And yt ſee-
 meth that ſainte accion is as muche to ſaye in
 Engliſhe ſayned accion, that is to ſaye, ſuche
 accion that thoughe the woordes of his writte
 bee true, yet for certeine cauſes hee hath no
 cauſe nor tytle by the law to recouer by ſame
 accion. And falſe accion is, where the woordes
 of the writte bee falſe, and in the two caſes be-
 foreſayde if the caſe were ſuche that after ſuch
 a recouery, and execution therof made, the te-
 naunt in the talle had diſſeiſed him that reco-
 uered, and thereof dyed ſeiſed, wherby the
 Lande alſo diſcended vnto his iſſue, thys ys a
 Remitter to the pſſue, and the pſſue is in by
 force of the talle, and for that cauſe **I** haue
 putte theſe two caſes before ſayde, to en-
 fourme thee my ſonne, that pſſue in the talle
 by force of a diſcent made to hym after a re-
 couerye, and execution thereof made agaynſte
 his aunceſter, may bee as well in his remitter
 as hee ſhoulde bee by diſcent made to him after
 a diſ-

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a discontinuance made by his auncester of the tyled lande by feoffemente in the countrey or other wise.

¶ Also, in the same case aforesaid, if the case were such that after the demaundant had iudgement to recover against the tenaunt in taile, and the same tenant in the taile dyed before any execution had against him where by the tenements descend to his issue, and hee that recovered sued a scire facias to have execution of the iudgement against the issue in the taile the issue shall plede the matter as before is said: & so shall proove that the recoverie was false or faint in the law, & so shal barre him to have execution of the iudgement &c.

¶ Also, if tenaunt in the taile discontinue the taile and dye and his issue bringeth a writ of Forimdone against the discontinue being tenaunt of the freholde of the lande, and the discontinue pleadeth that hee is not tenant, but otherwise disclaimeth fro the tenauncy in the lande, in this case the iudgemente shalbee, that the tenaunt goe without daye, and after suche iudgement the issue in the taile that is demaundante maye well entre in the lande notwithstanding the discontinuance. And by suche entre hee shalbee adiudged in his Remitter, and the cause is, because that if anye manne sue a Writte quod reddat against anye tenaunt of free holde, in which accion the demaundant shall not recover damages, and the tenants pledeth not non tenure, but otherwise disclaimeth

meth in the tenancy, & demaundant may not auerre the writ that hee is tenant as the writ supposeth. And for that cause the demandant after that, & iudgement is geuen that the tenant shall goe without daye, may enter into the tenements demaunded, the which helpee as great aduantage to him in this law, as if he hadde iudgement to recouer against the tenant. And by such entre he is in the remitter by force of the tail, but where the demandant recouereth damages against the tenant, there the demandant may auerre that he is tenant as the writ supposeth, and that for the aduantage of the demandant for to recouer his damages, or els he shal not receiue his damages the whiche damages be or were geuen him by the lawe.

¶ Also, if a man bee disseised, and the disseisor dye his heire being in by discent, now the entre of the disseisor is taken away. And if the disseisor bring his writ of entre vpon the disseisin, in the Wer, against the heir, & the heir disclaymeth in the tenancie &c. the demandant may auerre his writ that he is tenant as the writ supposeth if he wil, for to recouer his damages. But yet if he wil leaue the auerrement &c. he may lawfully enter into the land, because of the disclaimer, notwithstanding that his entre befoze was taken away. And that was adjudged befoze my master sir Roberte Danbrey late chiefe iustice of the common place, and his companions.

B. i.

¶ Also

Remitter.

Also where the entre of a man is lawfull though y^e he take estat to him whē he is of full age for terme of life, or in taile or in fee this is a remitter to him if such taking of estat be not by dede indented or by matter of record y^e shal conclude or stop him. For if a man be disseised & thereof taketh estate of the disseisor without dede or by dede poll, y^e is a good remitter to the disseisy.

Also, if a mā let land for terme of life to another which alieneth to another in fee, & y^e alpe- nor maketh estate to y^e lessour, this is a remitter to y^e lessor because his entre was lawfull.

Also, if a man be disseised, and the disseisor lettereth the land to the disseisy by dede poll or without dede for terme of yeares, wherby y^e disseisy entreteth, this entre is a remitter to the disseisy. For in suche case where the entre of a manne is lawfull, and a lease is made to hym though that he claime by wordes in the countrey that he hath estate by force of such lease, or sayeth openly that he claimeth nothinge in the land, but by force of such lease, yet thys is a remitter to him for such clayme in the countrey is nothing to purpose, but if he claime in the court of record that hee hath estate but by force of such lease & not otherwise then hee is concluded &c.

Also, if twoe ioyntenautes seised of certain land in fee, the one beeing of full age, the other within age bee disseised, & the disseisor dieth seised and his issue entreteth the one of the ioynte

jointenants being then within age, & after he cometh to full age, the heire of the disseisor letteth the land to the same jointenant for terme of their lives, this is a remitter as to the halfe to him & was within age because he is seised of the moiety & belongeth to him in fee, because his entire was lawful. But the other jointenant hath in the other half but estate for terme of life by force of the lease because his entire was taken away &c.

Warrantie. cap. xij.

It is commonly sayd that there be three manner of warranties, that is to say, warranty in all, warranty collaterall, and warranty that beginneth by disseisin. And it is to witte that before the statut of Gloucester all warranties which descended to them which were heiress to them & made the warranty were barres to the same heirs to demand any lands or tenements against those warranties except the warranties & began by disseisin for such warranty was neuer barre to the heire because the warranty began by wrong that is to saye by disseisin.

A warranty that beginneth by disseisin is in suche forme. As where there is father & sonne & the sonne doth purchase land &c. and letteth the same land to his father for terme of yeares & the father by his dede thereof encroffeth another in fee, and bindeth him and his heirs to

R. ij.

warrantie

Warrantie:

Warranty, & if the father die wherebp̄ ȳ warranty descendeth to his sonne, this warranty shall not barre the sonne, for notwithstanding this warranty the sonne maye wel enter in ȳ lande or haue an assise against the alien if he wil because ȳ warranty began by disseisin. For whē ȳ father ȳ had no estate but for terme of yerres made a feoffement in fee this was a disseisin to ȳ sonne of franktenement ȳ then was in the sonne. In the same maner it is if the sonne let vnto the father ȳ land to hold at wil & after ȳ father maketh a feoffement with warranty &c. And as it is said of ȳ father so may it be said of euery other ancestor &c.

CIn the same maner it is if tenant by elegit, tenat by statut marchant, or tenant by statut staple make a feoffement in fee w̄ warranty &c. this shal not barre the heir ȳ ought to haue ȳ land because ȳ such warranties beginneth by disseisin.

CAlso if a warden in chivalry or wardē in so cage make a feoffement in fee or in fee taile for term of life w̄ warranty &c. Such warranties be no barres to ȳ heirs to whom the land shal descend because ȳ they begin by disseisin.

CAlso if the father and the sonne purchase certaine landes or teneementes to haue and to hold to them jointly &c. & after the father alieneth the whole to another and bindeth him & his heires to warranty &c. and after the father dieth, this warrantie shal not barre ȳ sonne of the moiety that belonged to him of the same teneements

nements, bicause that as to the moitye that be longed to the sonne the warranty began by disseisin.

¶ Also if A of B. be seased of a mese & F of G & hath no right to enter in y same mese clapping to hold the same mese to hym & to hys heys entre into y same meses but A of B thē is continually dwelling in y same mese, i thys case y possession of y franktenement shalbe alway adjudged in A of B and not in F of G bicause that in suche case where two bee in one mese, or in other tenements, & the one claimech by one title & the other by another title, the lawe shall adjudge him in possession that hath right to haue the possession of the same tenement. But in the case aforesaid if F of G make a scoffement to certain barretours & extorcioners in the countrey for to haue maintenaunce of them of the same mese by a dede of scoffement wth warrant by force of which y said A of B dare not dwell in the same mese, but goeth out of y same mese this warrantie beginneth by disseisin, bicause that such a scoffement was cause that the saide A of B left the possession of the same mese.

¶ Also, yf a man that hath no righte to enter in anothers tenementes, enter into the sayd tenementes, and incontinent makethe a scoffement to other persons by hys dede with warrantie, and deliuer to them seisin, thys warrantie beginneth by disseisin, because that the disseisin and the scoffement were made as it were at one tyme. And that this is lawe, ye

V Varrantie.

may see it in a plee. An. xxi. Ed. iij. in a wozitte of Formedon in the reuerſion.

A warrantie lyncall is where a man ſeaſed of certayne lande in fee maketh ſcoffement by his dede to another, and byndeth hym and his heires to warrant, & hath iſſue & dieth, and ſo warrantie deſcendeth to his iſſue. This is a lyncall warrantie. And the cauſe why this is a lyncall warrantie, is not bicauſe ſo the warrantie deſcendeth from the father to his heire, but the cauſe is becauſe that if no ſuch dede with warrantie had been made by the father, then the righte of the teneiments ſhould deſcende to the heire, and the heire ſhould conuey the diſcente from the father &c. For if there bee father and ſonne, and the ſonne purchaſe teneimentes in fee, and the father diſſeaſeth the ſonne thereof and alpeneth it to another in fee by his dede, and by the ſame dede byndeth hym and his heires to warrant the ſame teneimentes and ſo forth, and the father dyeth, now the ſonne is barred to haue the ſayde teneimentes, ſo hee maye by no ſute nor by anye other meanes haue the ſayde teneimentes, bicauſe of the ſayd warrantie. And that is a collaterall warrantie, and yet the warrantie deſcendeth lyncally from the father to the ſonne. But becauſe that yf no ſuche dede with warrantie hadde been made, the ſonne in no manner myghte conuey the tyle that hee hath of the teneimentes from his father to hym, in ſo muche that his father hadde no eſtate nor ryghte in the teneimentes

ments, therfore such warrantie is called collaterall warrantie. In so much that he y made the warrantie is collaterall to the title of the tenementes, and that is as much to say, that he to whome warrantie descended, coulde not conuey the title that he had in the tenementes by him that made the warranty, in this case if no such warrantie had be made.

¶ Also, if there be graundfather, father and sonne, & the graundfather is disseised in whose possession the father releaseth by his deede A warrantie &c. & dyeth, and after the graundfather dyeth, now is the sonne barred of the tenements by the warranty of his father, & this is called lineall warrantie, because y if no suche warrantie had be made, y same might not haue conueyed the right of the tenementes to hym, nor shew how he is heire to the graundfather but by meanes of the father &c.

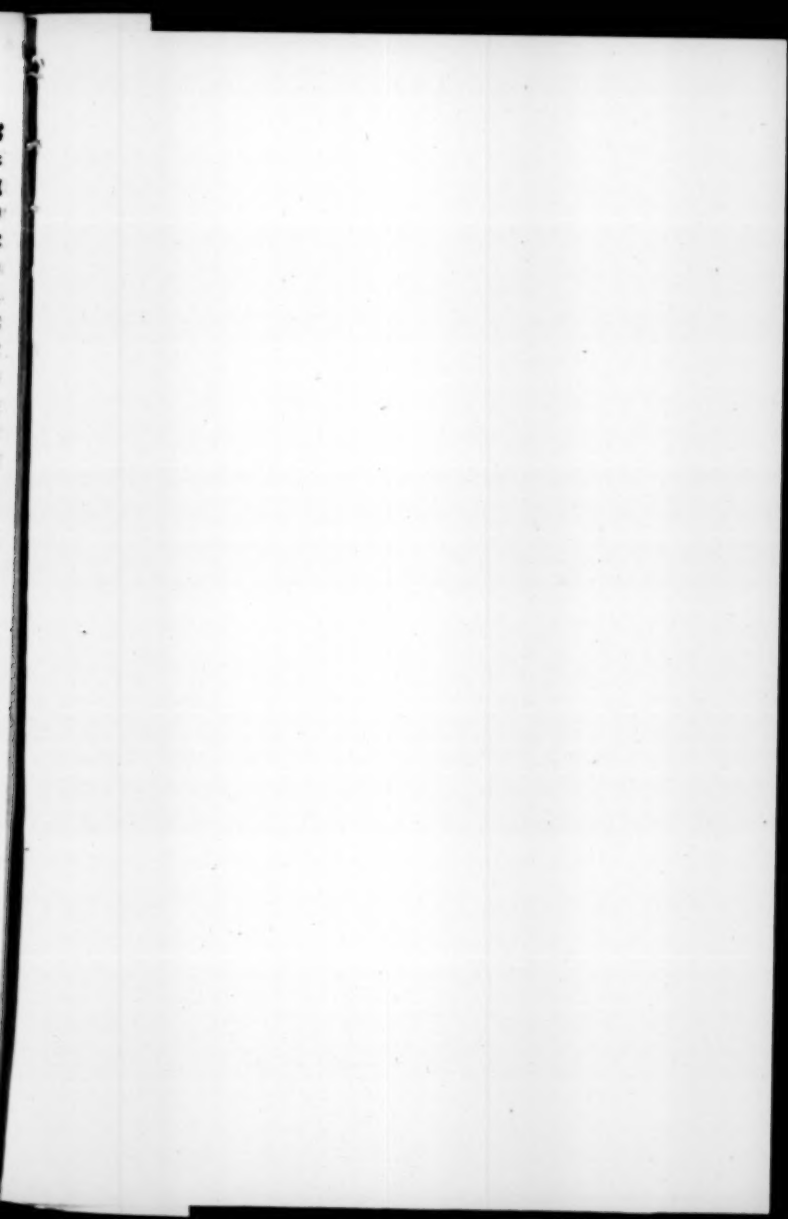
¶ Also, if a manne haue issue three sonnes and is disseised, and the elder sonne releaseth to the disseisour by his deede with warranty &c. & dyeth without issue, and after this the father dyeth, this is a lineall warranty to y younger sonne, because that though the elder sonne dyed in the life of the father, yet by possibilitie it might bee that he myght conuey to hym the title of the land by his elder brother, if no such warranty had bee made. For it myght bee that after the death of the father, the elder brother entered into the tenements & died without issue, and then the younger sonne shall conuey

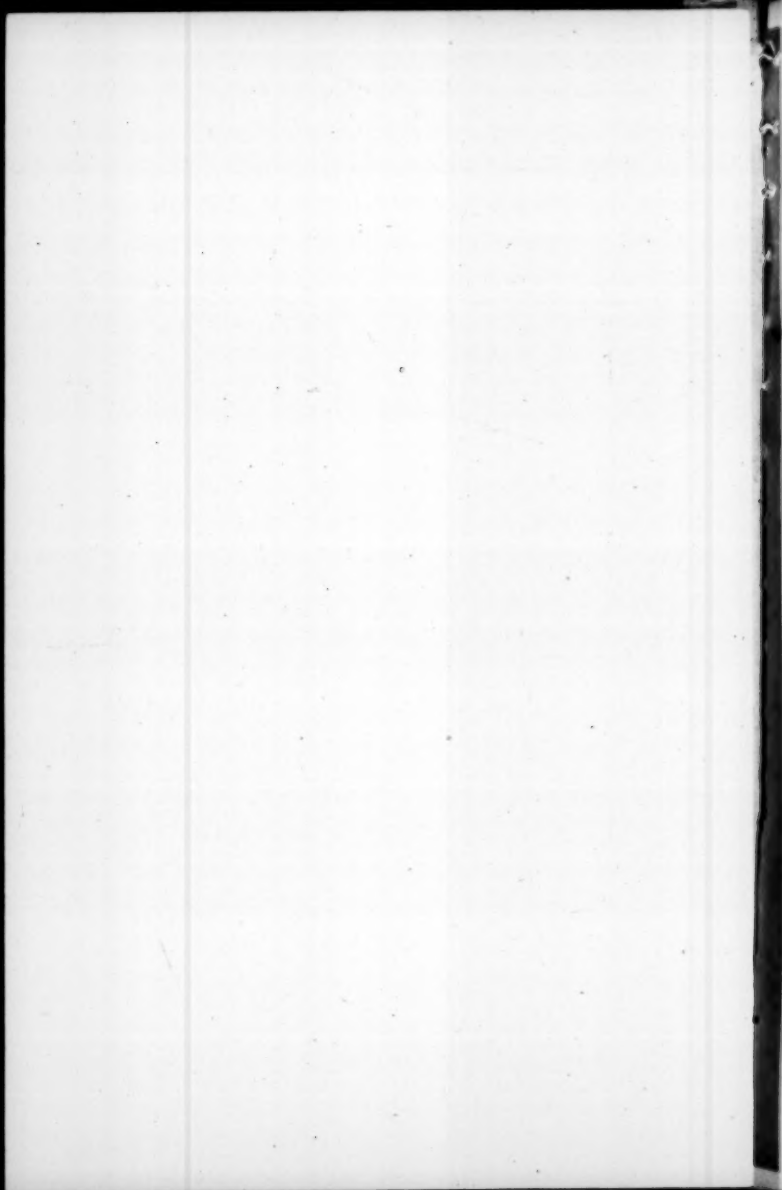
VVarrantie.

to him & title by his elder brother. But in this case if the yonger sonne release with warrantie to the disseisor & dieth woutt issue, this is a collateral warrauntie to the eldest sonne, by cause & of such lande as was to the other, the elder brother by no possibilitie might conuey to him the title by meane of & yonger brother.

¶ Also, if tenaunt in the taile haue issue three sonnes and discontinue the taile in fee, and the middle sonne releaseth by his deede to the discontinuer and bynd him and his heirs to warrantise &c. and after the tenant in the taile dye and the middle dyeth without issue, nowe is & elder sonne barred to haue any recovery by a writ of Forzmedon, because that the warrantie of the middle brother is collateral to him, in so much that he may by no maner conuey to him by force of the taile any discent by the middle brother, & therfore it is a collateral warrantie. But if in this case & elder brother dye woutt issue, nowe the yonger brother maye well haue a Forzmedon to the discenter & recouer & same land, because that the warrauntie of the middle brother is lineall to & yongest brother, because it may be that by possibilitie & middle brother may be seised by force of the taile after the death of his elder brother, & then the yongest brother may conuey hys title of discent by the middle brother &c.

¶ Also if tenant in the taile discontinue the taile & hath issue, and dye, and the vncle of the issue release to the discontinuer & warrantie &
dye





dye without issue, this is a collaterall warrantie, to the issue in the taile, because \S the warrantie dyscendeth vpon the issue. which cannot conuey himself to the taile by meane of his vnkle.

Elso if tenannte in the taile haue issue two daughters & dye, & the elder daughter entere into the whole, & therof maketh a feoffement in fee with warrantie, & after the elder daughter dieth without issue, in this case \S yonger daughter is barred as to the moitie, & as to the other halfe she is not barred for as to the moitie that belongeth to \S yonger daughter shee is barred because that as to the moitie that belongeth to her shee cannot conuey the descent by \S meanes of her elder sister. And therefore as to that moitie that is a collaterall warrantie, but as to the other moitie which belongeth to her elder sister by the same elder sister \S warrantie is no barre to the yonger sister, because that she may conueigh her descent as to that moitie that belonged to her elder by the same elder sister. And so as to that moitie that belongeth to \S elder sister the warrantie as to that is lineall to \S yonger sister &c.

And note well that as to him that demaundeth the fee simple by any of his auncesters, shee shalbe barred by lineal warrantie whiche dyscendeth vpon him, excepte it bee restrained by some statute, but he which demaundeth fee tail by a writ of Feinedone in the dyscender shall not be barred by lineall warrantie, excepte hee
haue

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haue ynough by discent in fee simple by & same
auncester that made the warrantie, but a col-
laterall warrantie is barre to him & demaun-
deth fee, and also to hym that demaundeth fee
taile, without anye other discent of fee simple,
except in cases that bee restrained by & statute
& other causes for certein causes as shalbe said
hereafter.

C Also, yf land be geuen to a man and to hys
heires of his body begotten, the whych taketh
a wife & haue issue a sonne betwene them, and
the husband discontinueth the taile in fee, and
dyeth, & after the wife releaseth to the dyscon-
tinue in fee with warranty and dyeth, and the
warranty descendeth to the sonne, this is a col-
lateral warrantie. But if tenements bee geuen
to the husband & the wife, and to the heires of
their two bodies begotten whiche haue issue a
sonne, & the husband discontinueth the taile and
dieth, & after the wife releaseth with warranty
& dieth, this warrantie is but a lineall war-
rantie to the sonne, for the sonne shal not be bar-
red in this case to sue his writ of Forzme, ex-
cept he haue ynough by discent in fee simple by
his mother because that their issue in a writ of
Forzmedon ought to conuey to him the right as
heire to his father and to his mother of their
two bodies begotten by fourme of the gife,
And so in such case the warrantie of the fa-
ther and the warrantie of the mother bee but
as lineall warranties to the heire &c. And note
well that in euery case where a man demaun-
deth

deeth tenementes in fee taylor by a writ of For-
medon. if any of the issue in the taylor that had
possession or that hath possession make a war-
rantie &c. if he that sueth the writ of Formedon
might by any possibilitie by matter that might
be in dede conveyed to him by him that made
the warrantie by the forme of the gifte. This
is a lyncall warrantie, and not collaterall.

¶ Also if a man haue issue three sonnes, and
hee giueth land to his eldest sonne to haue and
to holde to him and to the heires of his boode
begotten, and for default of suche issue the re-
mainder to the middle sonne to him, and to the
heires of his boode begotten, and for default
of suche issue the remainder to the youngest
sonne, and to his heires of his boode begot-
ten, in this case if the eldest sonne discontinue
the taylor in fee and bynde hym, and his heires
to warrantie and die without issue, this is
a collaterall warrantie to the middle sonne and
hee shalbe barred to demaunde the same lande
by force of the remainder, because that the re-
mainder is his title, and his eldest brother is
collaterall to the title which beginneth by force
of the remainder.

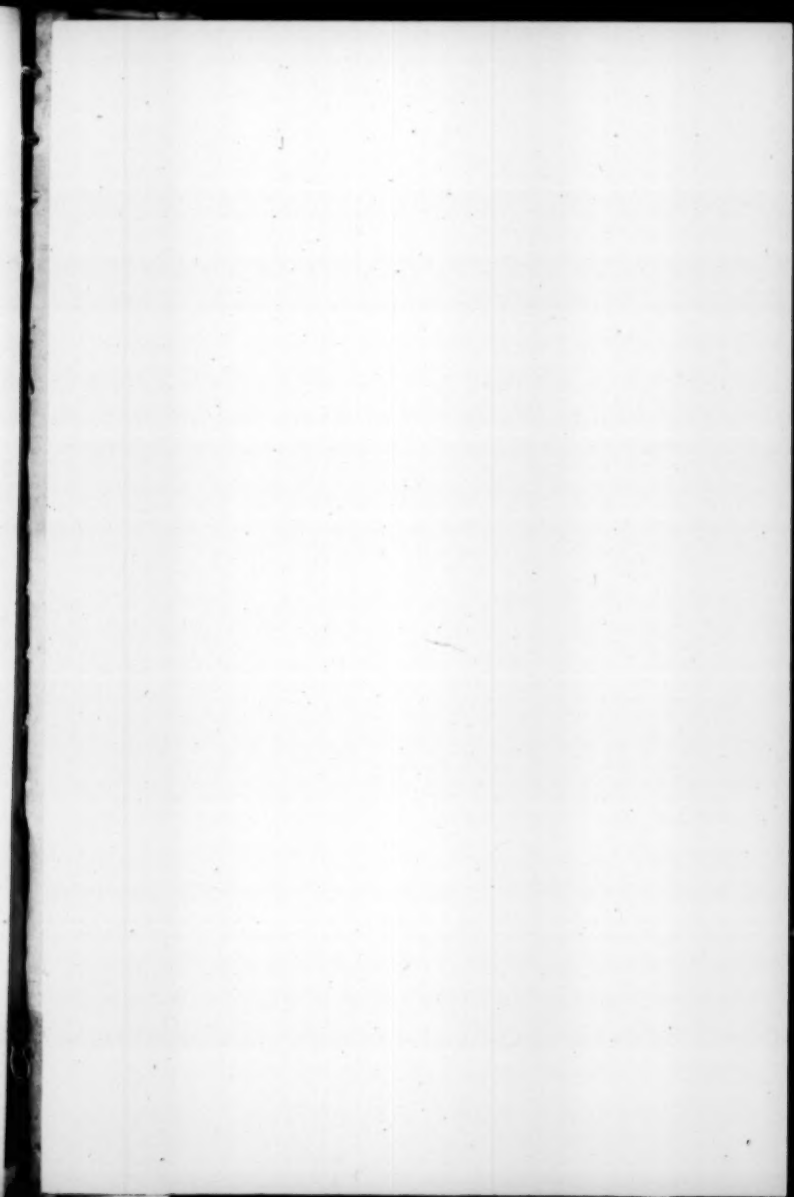
¶ In the same maner it is if the middle sonne
had the same land by force of the remainder, by-
cause that his eldest brother made no disconti-
nuance, but died without issue of his boode,
and after the middle sonne maketh a disconti-
nuance with warrantie &c. and dieth with-
out

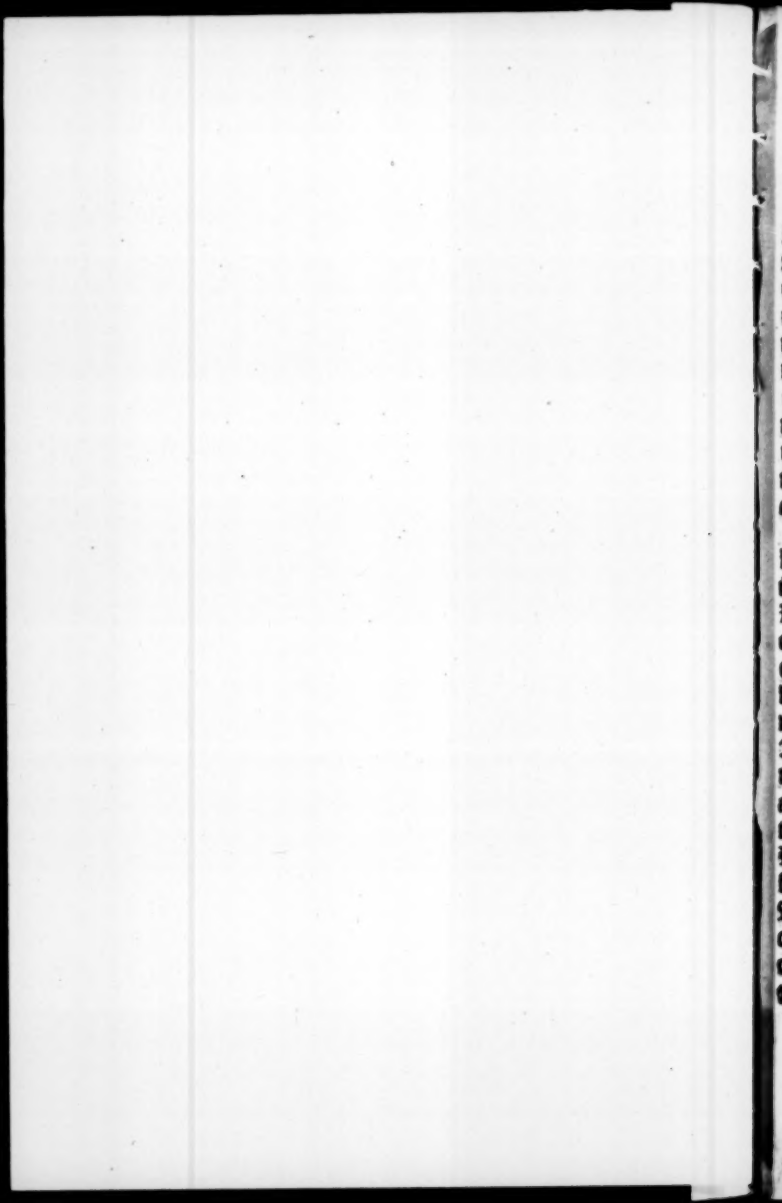
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out issue, this is a collateral warrantie to the yongest sonne & also in this case if any of \S said sonnes be diseased, & the father that made the gift release to the dysseysoure all hys ryghte &c. with warrantie, this is a collateral warrantie to that sonne vpon whō the warrantie descended causa qua supra. And so note well \S wher a man that is collateral to the title &c. releaseth the with warrantie, that is a collateral warrantie.

C Also, if the father giue lande to hys elder sonne to haue and to holde him & to the heires males of hys bodye begotten the remaynder to the seconde sonne &c. if the eldest brother alien in fee with warrantie &c. and haue issue female & dieth without issue male, this is not a collateral warrantie to the seconde sonne, nor shall not hurt him of his accion by \S oimcedon in the remaynder because that the warrantie descended to the daughter of the eldest sonne, and not to the seconde sonne. For every warrantie that descendeth, descendeth to him that is heire vnto him which made the warrantie by the common lawe &c.

C Also, if land be given to a man and to hys heires males of hys bodye begotten, and for defaulte of suche p'sue the remaynder thereof to hys heires females of hys bodye begotten, and after the donee in the taile maketh a feoffment in fee with warrantie accordinge, and hath issue a sonne & a daughter, and breth this warrantie is but a lyneall warrantie to the sonne. to demaunde by writ of \S oimcedon in the disseisin,





rendre. And it is; but lyneal to the daughter to demaund the same land by writ of Forimdon in the remainder, yf her brother die without heire male because that shee claymeth as heire female of the body of her father begotten. But in this case if her brother in his life release to the discontinue &c. with warranty &c. And after die without issue, this is a collateral warrantie to the daughter, because y she cannot comey to her the right y shee hath by force of the remainder by any meane of descent by her brother, & therfore the brother is collateral to the title of his sister, & therfore his warranty is collateral &c.

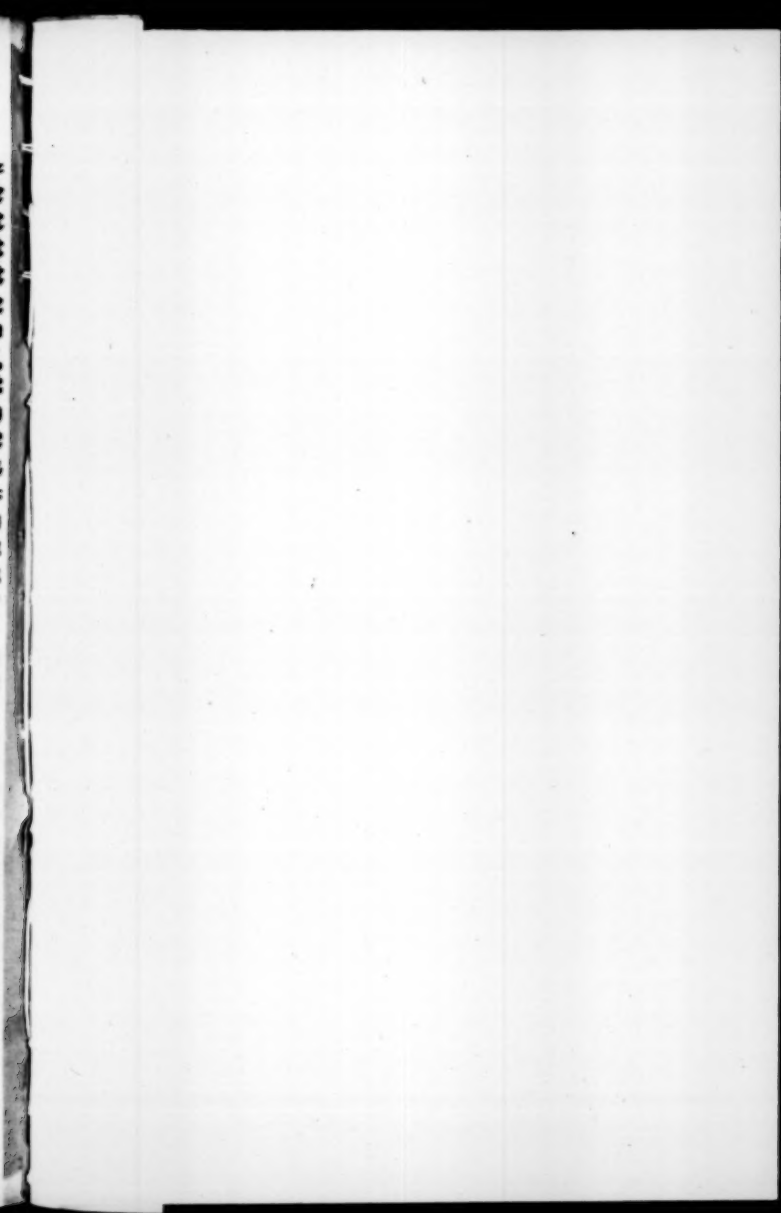
¶ Also I have harde say that in the tyme of king Ric. harde the second there was a iustice in the common place dwellinge in Kent, called Rikhil, that had issue diuers sonnes. And his entent was, that his eldest sonne should haue certayne landes to hym and the heires of his bodye begotten, and for defaute of issue, the remainder to his seconde sonne and so forth, And so the thirde sonne &c. And because that he woulde that none of his sonnes should alien or make warranty for to barre or to hurt that other that should be in the remainder &c. He caused to be made an indenture to such effect, that is to say y the landes and tenementes were geuen to his eldest sonne vppon this condicion, that if the eldest sonne aliened in fee or in fee taile &c. or anye of his sonnes aliened &c. y then their estate should cease & thomes

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boyde, and that then the sayde landes or tenements immediatly should remaine to the second sonne and to the heires of his body begotten and that vpon the same condicion **S.** that if the second sonne alien &c. that then his estat should cease, and **¶** then the same landes & tenements should remaine to the third sonne, & to the heires of his body begotten and so forth, the remainder to other of his sonnes & liuerye of seisin was made according. But it seemeth by reason **¶** al such remainders in the forme before said be void, and of no value, and that for thre causes. One cause is because euery remainder that beginneth by a dede, it behoueth that the remainder be in him to whō **¶** remainder is tyled by force of the same dede when the liuery of seisin is made to him that hathe **¶** franktenement.

And such remainder was not to the second sonne at the time of liuery of seisin in the case before said &c.

The seconde cause is of the first sonne as if he the tenements in fee, then is the franktenement and the fee simple in the alienee and in none other, and if the donour had any reuerſion by such alienaciō, the reuerſion is discontinued, then though that by some reason it may bee that such remainder shal begynne hys being and hys growing. Immediatly after such alienacion made to a straunger that hathe by the same alienacion franktenement and fee simple, and also if such remainder shoulde bee





ceñdye, And it is but lyneall to the daughter to
 demaund the same land by wyte of *Formedon*
 in the remainder. yf her brother dye withoute
 heire male because that shee claymeth as heire
 female of the body of her father begotten. But
 in this case if her brother in hys life release to
 the discontinue &c. with warrantye &c. And af-
 ter dye without issue, this is a collateral war-
 rantie to the daughter, because y she canot co-
 tinue to her the righte y shee hath by force of the
 remainder by any meane of discente by her bro-
 ther, & therfore the brother is collateral to the
 title of his sister, & therfore his warrantye is
 collateral &c.

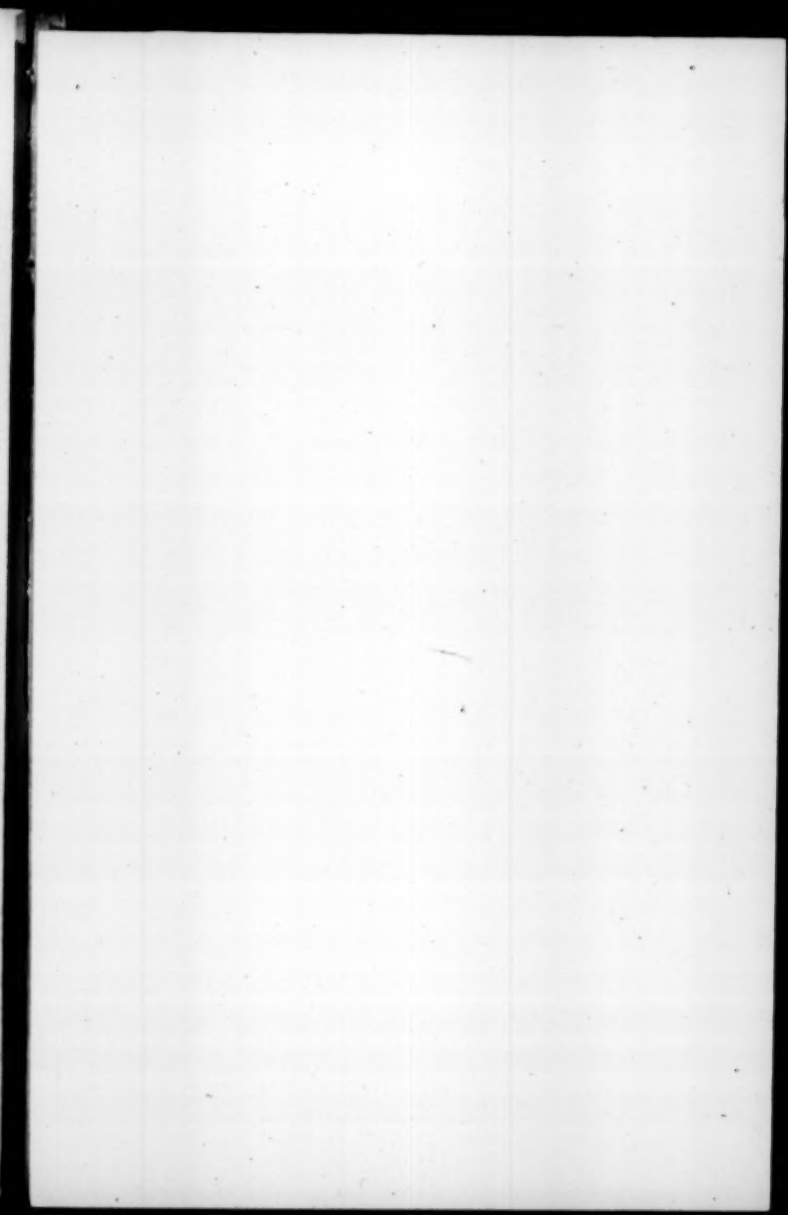
¶ Also I haue harde say that in the time of
 king *Richarde the seconde* there was a iustice
 in the common place dwellinge in *Dent*, called
Rikihil, that had issue diuers sonnes. And hys
 entent was that his eldest sonne shoulde haue
 certayne landes to hym and the heire of hys
 bodye begotten, and for defaute of issue, the
 remainder to his secunde sonne and so forth,
 And so the thirde sonne &c. And beecause
 that hee woulde that none of his sonnes shoulde
 alien or in the warrantie for to barre or to hurt
 that oher that shoulde be in the remainder &c.
 He caused to bee made an indenture to such ef-
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 or in fee taile &c. or anye of his sonnes aliened
 &c. y then their estate shoulde cease & shoulde bee
 voyde

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boyde, and that then the sayde landes or tenementes immediatlye should remaine to the seconde sonne and to the heirs of his body begotten and that vppon the same condicion **S.** that if the second sonne alpen &c. that then his estate should cease, and y then the same lands & tenements should remaine to the thirde sonne. & to the heirs of his body begotten and so forth, the remainder to other of his sonnes & liuerye of seisin was made accordinge. But it seemeth by reason y at such remainders in the forme beforesaid bee boyde, and of no value, and that for thre causes. One cause is because euery remainder that becometh by a dede, it behoueth that the remainder be in him to whom y remainder is tyled by force of the same dede when the liuerye of seisin is made to him that hath the franktenement.

And suche remainder was not to the seconde sonne at the time of liuerye of seisin in the case beforesaid &c.

C The seconde cause is yf the first sonne alieneth the tenements in fee, then is the franktenement and the fee simple in the aliene and in none other, and if the donour had any reversion by such alienacion, the reversion is discontinued, then though that by some reason it may bee that such remainder shall begyne hys being and hys growing. Immediately after such alienacion made to a stranger that hath by the same alienacion franktenement and fee simple, and also if suche remainder should be



be good then might hee enter vpon the aliene wher he had no maner of right befoze & alienacion, which shoulde be inconueniēt. The thirde cause is when & condiction is such & if & eldest sōne aliene &c. & his estate shal cease, or shalbe void &c. then after such alienacion &c. maie the donour entre by force of such condicio &c. as it semeth, & so & donour or his heirs in such case ought moze sooner to haue & land, then & secōd sonne & had no right befoze such alienacio &c. & so it semeth & such remainders in the case be foresaid be void.

CAlso, at the common law befoze & statute of Gloucester, yf ternaunt by the curtesy had aliened in fee with warrantie accordaunt, after his decease this was a barre to the heir &c. as it appeareth by the wordes of the same statute. But it is remedied by the same statute, that the warrantie of the ternaunt by the curtesie shalbe no barre to the heir, except hee haue ynough by discent by the ternaunt by the curtesie, for befoze the saide estatute that was a collateral warrauntie to the heir, because hee coulde not conueye anye title of dyscent to the tenements by the ternaunt by the curtesye, but onely by his mother or other of his auncesters &c. and that is the cause why it was collateral warrauntie. But if a manne enheryte take a wife, whiche haue issue a sonne betwene them and the father dyeth, and the sonne entreth the lande, and endoweth his mother and his mother alpeneth that that shee hath

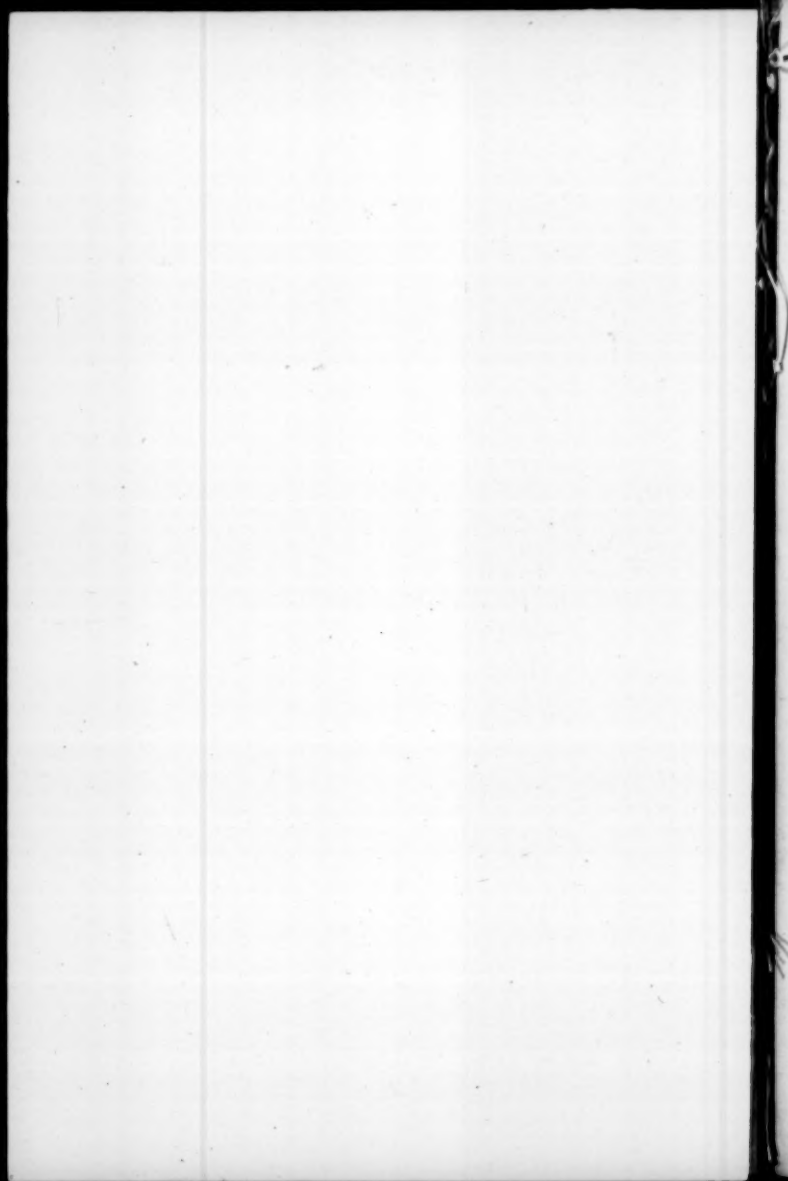
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dower to another in fee, with warrantie accordinge, and after dyeth, and the warrantie descendeth to the sonne, nowe the sonne shal bee barred to demaunde the same lande because of the said warrauntie, because that such collateral warrauntie of tenaunt in dower is not remedied by any statute. The same law is where tenant for terme of life maketh an alienacion with warrantie &c. and dieth, and the warrantie descendeth to him that had the reversion of the remaindre &c. they shalbee barred by suche warrantie &c.

¶ Also, in the sayde case if it so were that whē the tenaunt in dower alieneth &c. the heire was within age and also at that time that the warrantie descendeth vpon him, he was with in age, in this case the heire maye after enter vpon the alience notwithstanding the warrantie descended &c. because that no laches shal bee adiudged in the heire wthin age, that hee entered not vpon the alience in the lyfe of the tenaunt in dower, but if the heire was with in age at the time of the alienacion, and after he came to full age in the life of the tenaunt in dower, and so being of full age hee entered not in the lyfe of the tenaunt in dower, and after the tenaunt in dower dyeth, there peradventure the heire shalbe barred by such warrauntie because it shalbe accompted his folke & hee being of full age, entered not in the life of the tenaunt in dower &c.

¶ Also, it is spoken in the ende of the sayde statute





be good then might hee enter vpon the aliens
wher he had no maner of right, before & aliena-
cion, which should bee inconuenient. The thirde
cause is when the condicion is such & if & eldest
sone aliene &c. & his estate shall cease, or shalbe
void &c. then after such alienacion &c, maye the
donour entre by force of such condicio &c. as it
seemeth, & so & donour or his heires in suche case
ought more sooner to haue & land, then & secōds
sonne & had no right before suche alienacion &c.
& so it seemeth & such remainders in the case bee
foresaid be void.

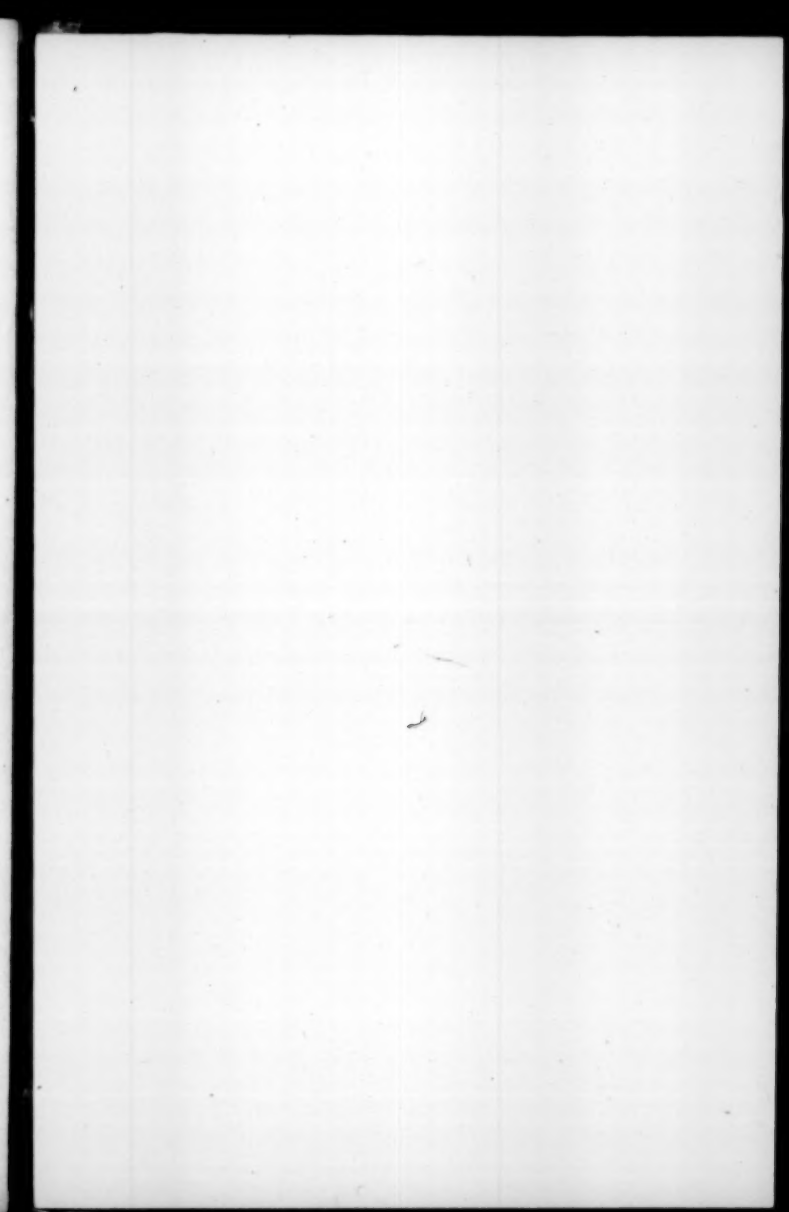
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ter his decease this was a barre to the heire &c.
as it appeareth by the wordes of the same
statute. But it is remedied by the same statut,
that the warrantie of the ternaunt by the curtes-
ie shalbe no barre to the heire, except hee haue
ynough by discent by the ternaunte by the curte-
sie, for before the saide estatute that was a col-
laterall warrantie to the heire, because hee
coule not conueye anye title of dyscent to the
tenements by the ternaunte by the curtesye, but
onely by his mother or other of his auncesters
&c. and that is the cause why it was collateral
warrantie. But if a manne enheryte take a
wife, whiche haue issue a sonne betwene them
and the father dyeth, and the sonne entrethe in
the lande, and endoweth his mother and after
his mother dyeneth that that shee hath in her
dowen

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Dower to another in fee, with warranty accor-
dinge, and after dyethe, and the warranty des-
cendeth to the sonne now the sonne shall bee
barred to demaunde the same lande because of
the said warraunty, because that suche collate-
ral warraunty of tenaunt in dower is not re-
medied by any statute. The same law is where
tenant for terme of lyfe maketh an alienacion
with warrantie &c. and dieth, and the warrantie
descendeth to him that had the reversion or
the remainder &c. they shall bee barred by suche
warrantie &c.

¶ Also, in the sayde case if it so were that whē
the tenaunt in dower alieneth &c. the heire
was within age and also at that tyme that the
warrantie descendeth vpon him, he was with-
in age, in this case the heire maye after enter
vpon the aliene notwithstandinge the war-
rantie descended &c. because that no laches shal
bee aduoged in the heire within age, that hee
entred not vpon the aliene in the lyfe of the
tenaunt in dower, but yf the heire was with-
in age at the tyme of the alienacion, and after
he came to full age in the lyfe of the tenaunte in
dower, and so being of full age hee entred not
in the lyfe of the tenaunte in dower, and after
y tenant in dower dyeth, there peradventure
the heire shalbe barred by suche warraunty be-
cause it shalbe accompted his folly & hee being
of full age, entred not in the lyfe of the tenaunte
in dower &c.

¶ Also, it is spoken in the ende of the sayde
statute





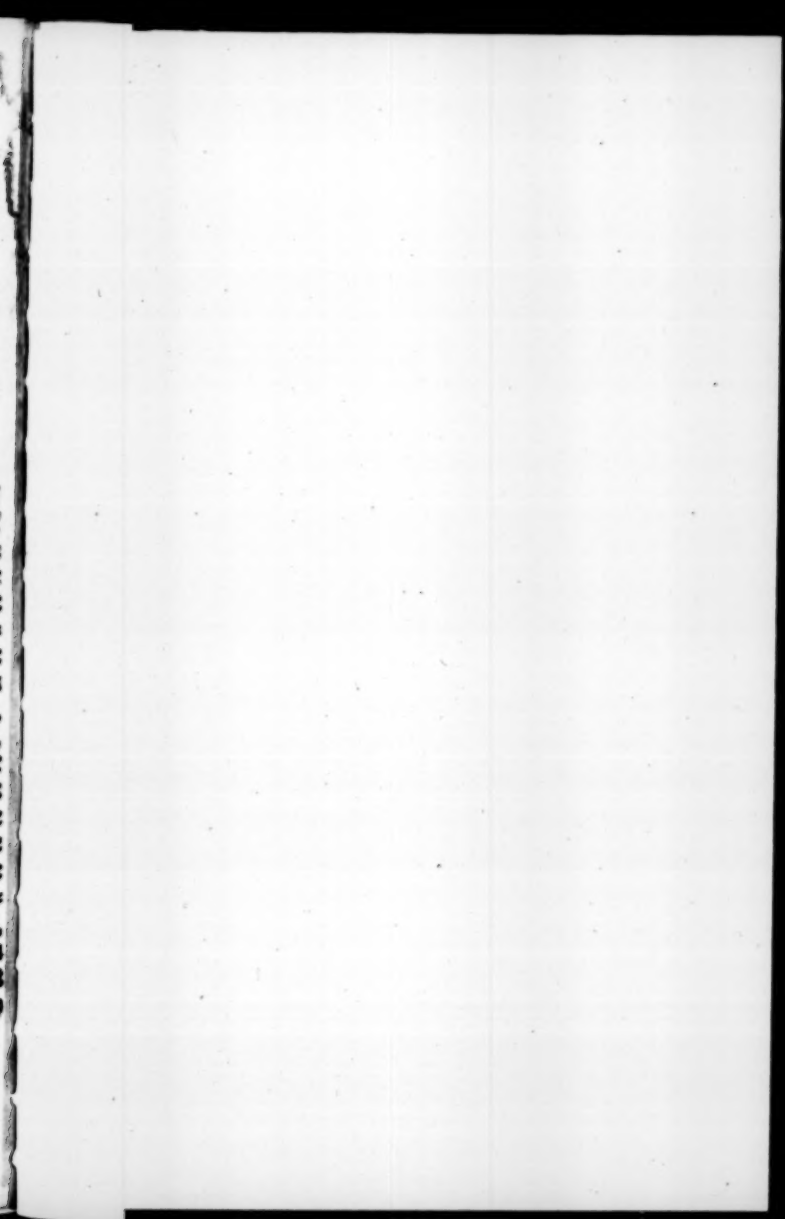
estatute of Gloucester, that speaketh of the alienation & warrantie made by the tenant by the curtesie in such forme.

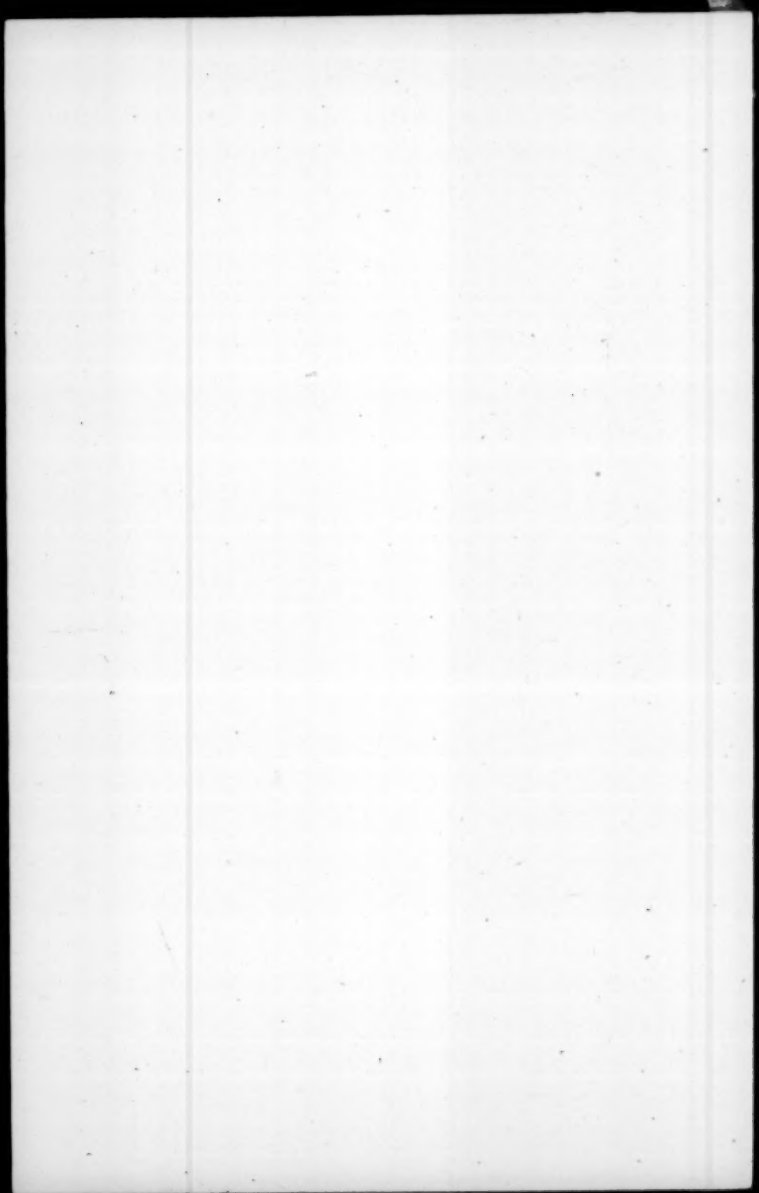
¶ Also in the same maner the heire of a woman after the death of her father & mother shal not be barred of action if he deimaund the heritage of the marriage of his mother by a writ of Entry that his father aliened in the tyme of hys mother, wherof no fine is leuyed in the kinges court &c. And so by force of the same statute marriage of the wife alien the heritage &c. by marriage of his wife in fee with warranty &c. by his dede in the countrey, this warranty shal not barre the heire &c. But the doubte is if that the husband alien the heritage of his wife by fine leuyed in the kinges courts with warranty &c. his shal barre the heire &c. out any discent & value &c. And as to that, I will say here certein reasons that I haue hard say in this matter. I heard my maister sir Richard Newion late chiefe Iustice of the common place, saye once in the same place, that such warranty that the baron maketh by fine leuyed in the kinges court shal barre the heire though that he haue nothyng by discent, because the statute sayeth, wherof no fine is leuyed in the kinges court &c. And so by hys opinion, this warranty by fine &c. abyedeth yet a collateral warranty as it was at the common lawe not remedied by the saide estatute, because that the saide estatute excepteth the

S. i. aliena-

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alienacion by fine with warrantie. And some
other haue sayd & yet say the contrary, & thys
is their prooffe, that as by the same Chapter
of the saide estatute, it is ordeined that y^e war-
rantie of the tenaunt by the curtesye shall n^e-
barre the heire except he haue ynough by d^el-
cent &c though y^e the tenant by y^e curtesye leupe
a fine of the same lands with warrant y^e &c. as
strongly as he can, yet this warrantie shal not
barre the heire except he haue assetz or ynough
and thent &c. And I beleue that this is lawe,
uenie herfore they say that it shoulde be incon-
uenient to vnderstande the statute in such for-
me, that a man that hath not but in y^e right of
his wyfe, maye by fyne leupyd by himselfe of
the tenementes, that he hath but in the ryghte
of his wyfe with warrauntie &c. barre the
heire of the saide tenementes without discent
of the fee simple &c. where the tenant by curtes-
ye cannot do it. And they haue sayde, that
the statute shal be vnderstand after this fourm
that is to saye, where the statute speaketh,
whereof no fyne is leupyd in y^e kynges court,
that is to saye, where no lawfull fyne is right
fully leupyd in the same kings court, and that
is, whereof no fyne of the husband & hys wyfe
is leuted in the kynges courte, for at the tyme
of the making of the sayde statute, euery state
of landes or tenementes that any man or wo-
man hadde that shoulde discende to hys heyre,
was fee simple without condicion or vppon
condicion in dedde or in law. And because that
such



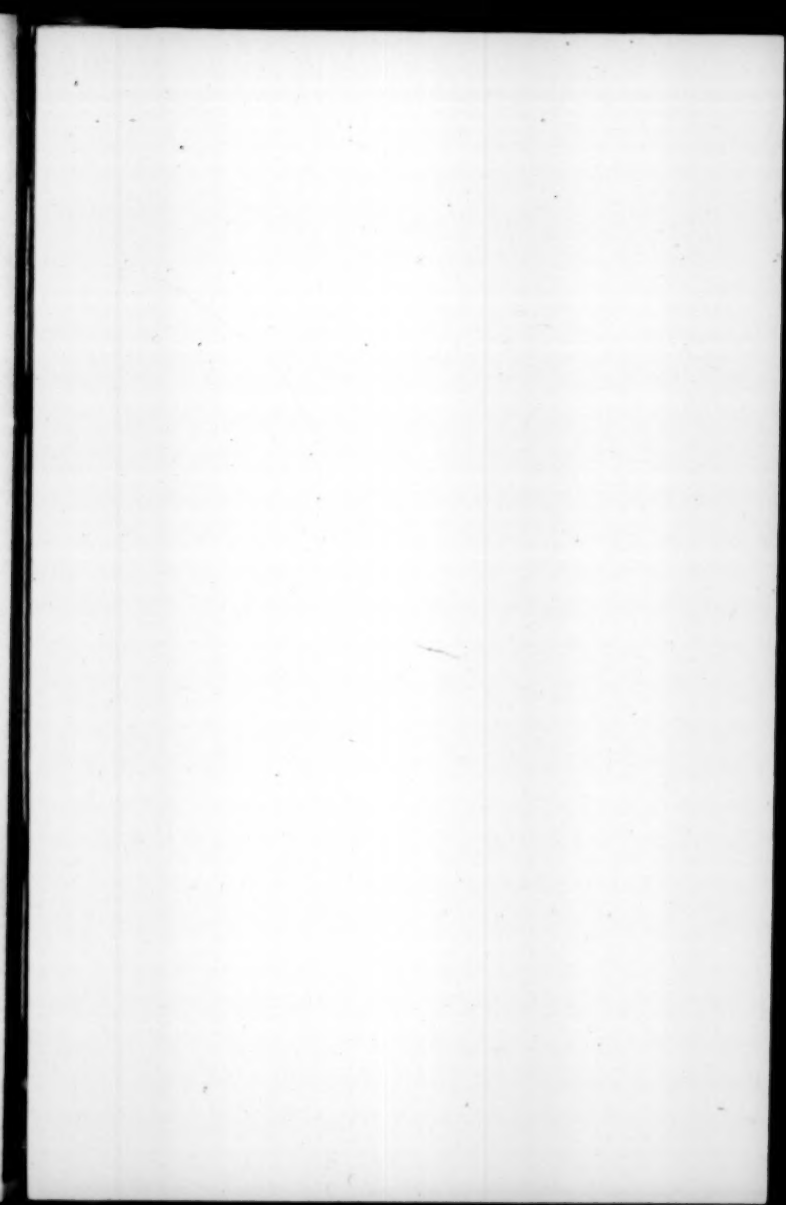


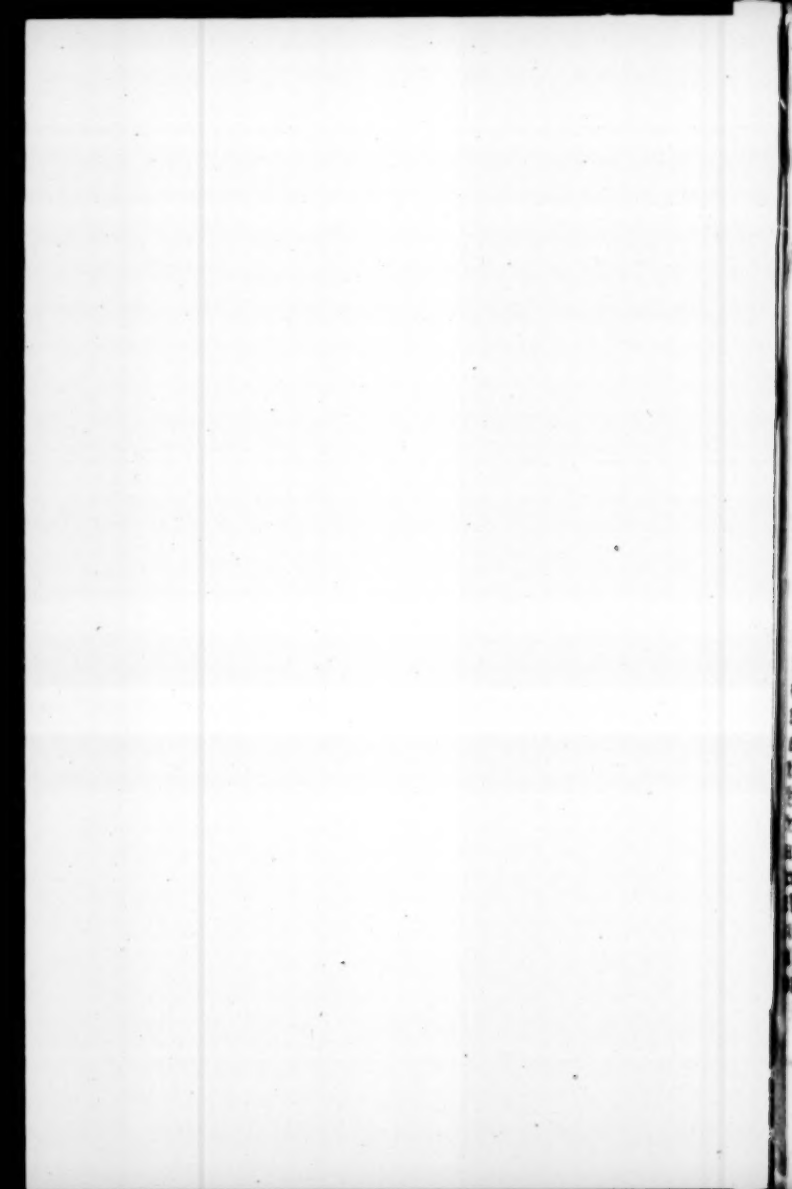
estatute of Gloucester, that speaketh of the alienacion & warrantie made by the tenant by the curtesie in such fourme.

Also in y same maner the heire of y woman after the death of her father & mother shall not be barred of action if he demaunde the heritages oz the mariage of his mother by a writ of Entree that his father alpyened in the tyme of hys mother. whereof no fine is leued in the kyngs court &c. And so by force of the same statut is y husbände of the wife alien the heritage oz maritage of his wife in fee with warrauntie &c. by this dedde in the countrey, this is clerclawe & this warrauntie shal not barre the heire excepte hee haue ynough by discent &c. But the doubt is if that the husbände alien the heritage of his wife by fine leued in the kynges courtes with warrantie &c. If this shal barre the heire without any discent in value &c. And as to that, I wil say here certeine reasons that I haue hard say in this matter. I hearde my maister sir Richard Newton late chiefe Iustice of the common place, say once in the same place, that suche warrantie that the baron maketh by fyne leued in the kynges courte shall barre the heire though that he haue nothinge by discente, because the statut sayeth, whereof no fine is leued in the kynges courte &c. And so by hys opinion, this warrauntie by fine &c. abydeyth yet a collateral warrauntie as it was at the common lawe not remedied by the saide estatute, because that the saide estatute excepteth the

Warrantye.

alienacion by fine with warrauntie. And some
other haue saide & yet saie the contrary, & thys
is there prooffe, that as by the same Chapter
of the saide statute. it is ordeined that y^e war-
rantie of the tenaunte by the curtesie shall not
barre the heire excepte hee haue ynough by dis-
cent &c. though y^e the tenant by the curtesie le-
uy a fine of the same landez with warrantie &c.
as strongly as he can, yet this warrantie shall
barre the heire except he haue assets or ynough
by descent &c. And I beleue that this is law
and therefore they saie that it should be incon-
uenient to vnderstande the statute in such for-
me that a man that hath not but in the right of
his wife, maye by fine leuyed by hymselfe of
the tenementes that hee hath but in the righte
of his wife with the warrauntie &c. barre the
heire of the saide tenementes wythout descent
of the fee simple &c. Where the tenaunt by cur-
tesie cannot doe it. But they haue sayd, that
the statute shalbee vnderstand after this forme
that is to saie, where the statute speaketh,
whereof no fyne is leuyed in y^e kinges courte,
that is to saie, where no lawfull fine is right
fully leuyed in the same kinges court, and that
is, whereof no fyne of the husband & hys wyfe
is leuyed in the kinges courte, for at the tyme
of the makinge of the saide statute, euery state
of landes or tenementes that anye man or wo-
man hadde that shoulde descend to hys heire,
was fee simple wythoute condicion or vpon
condycion in dede or in law. And because that
suche





such fine then might lawfully haue ben leuyed
by the husband & his wife, and that the heires
of the husband warrant &c. suche warrantys
shall barre the heire &c.

And b they say that this is the vnderstan-
ding of the said statute, for if the husband and
the wyfemade a scoffement in fee by decede in
the countrey, the heire after the decease of the
husband & the wife shall haue a writ of entre
Sur cut in vita &c. notwithstanding the war-
rantie of y husband. Then if no such exception
was made in the statute of y fine leuyed &c. the
the heire shuld haue the writ of entre &c. not-
withstanding y fine leuyed. & y husbande and y
wife, becau y the wordes of the statute before
the exception of the fine leuyed &c. be general-
ly &c. that is to saye, that the heire of the wo-
man after the death of her husbande and the
wife shall not bee barred of action if he demand
the heritage vnder the marriage of his mother by
a writ of entre that his father shewed in the
time of his mother, and so it shoulde be in the
case of the statute except suche wordes were,
that is to saye, wherof no fine is leuyed in the
kinges court. And so they saye that this is to
vnderstande, wherof no fine by the husbande
and the wife is leuyed in the kinges court &
which is lawfully leuyed in such case. For yf
the iustices haue knowledg. y a man y hathe
nothing but in the right of his wife, will leuye
y fine in his name onelpe, they will not nor
might not to take such fine to be leuyed by the

¶

hus-

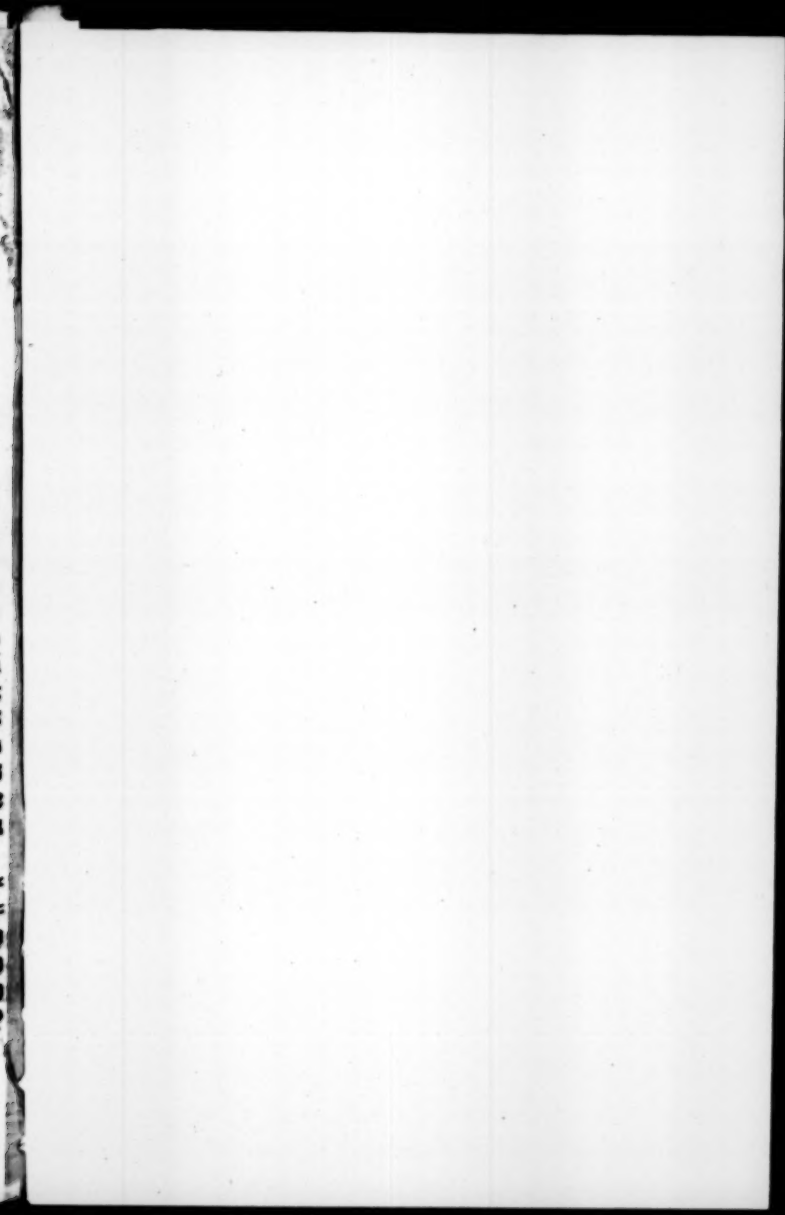
VVarrantie.

husband only wout nampyng the wife, therfore enquire of this matter.

¶ Also it is to wete þ in suche wordes where the heire demaundeth the heritage oz mariage of his mother, this woord is a disluntine, and is as much to say, if the heire demaund the heritage of his mother, that is to bee vnderstand the tenementes þ his mother had in ve simple by discent oz by purchase, oz if the heire demaund the mariage of his mother þ is to say, the tenementes þ were geuen vnto his mother in frankmariage.

¶ Also where it is moued in diuers deedes these woordes in law. Ego & heredes mei ac. warrantizabimus & imppetuam defendemus, it is to see what effect hath that woord defendemus in such deedes. And it seemeth þ it hath not the effect of warrantise, nor comprehendeth any cause of warrantise, for if it shoulde bee so that it taketh effect oz cause of warrantise, thā it shoulde be put in some fines leued in þ kings court. And a man neuer saw þ these woordes defendemus was in fine but onely this woord warrantizabimus, by which it seemeth þ this verbe warrantise maketh warranty. & is the cause of warrantise, and none other woode in our laswe.

¶ Also if tenaunt in the taile be seised oz tenementes deuysable by testament after the deathe of some &c. And the tenaunt in the taile alieneth the tenementes to his brother in fee, and hath issue and dyeth, and after his brother deuyseth





such fine then might lawfully have bene leuied by the husband & his wife, and that the heyres of the husband warrant &c such warranty shal barre the heire &c.

¶ And so the say that this is the vnderstandinge of the said statute, for if the husband and the wife made a feoffement in fee by decede in the countrey, the heire after the decease of the husband and the wife shal haue a writ of entre Sur cui in vita &c. notwithstanding the warrantie of y husband. Then if no such exception was made in the statute of y fine leuied &c. the heire shoulde haue the writ of entre &c. notwithstanding y fyne leuied by the husband and y wife, because y the wordes of the statat befoze the exception of the fine leuied &c. be generally &c. that is to saye, that the heire of the woman after the deathe of her husbände and the wife shal not bee barred of action if he demand the heritage or the marriage of his mother by a writte of Entre that his father aliened in the tyme of his mother, and so it shoulde bee in the case of the statute excepte such wordes were, that is to say, whercof no fine is leuied in the kinges courte. And so they saye that this is to vnderstande, whercof no fine by the husbände and the wife is leuied in the kinges courte the which is lawfully leuied in suche case. For yf the Iustices haue knowledge y a man y hath nothinge but in the right of his wife, wil leuie a fyne in his name onelye, theye will not nor ought not to take suche fine to be leuied by the

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husbande onely & out naminge the wife, therefore enquire of this matter.

¶ Also it is to note & in such wordes where the heire demandeth the heritage or mariage of his mother, this worde is a diuincture, and is as much to say, if the heire demand the heritage of his mother, that is to be vnderstand the tenementes & his mother had in fee simple by descent or by purchase, or if the heire demande the mariage of his mother, & is to say, the tenementes that were geuen vnto his mother in frankemariage.

¶ Also where it is moued in diuers deedes these wordes in latine *Ego & heredes mei re. warrantisabimus & imppetuum defendemus*, it is to see what effect hath that worde defendemus in such deedes. And it seemeth & it hath not the effect of warrantie, nor comprehendeth any cause of warrantie, for it shoulde bee so that it taketh effect or cause of warrantie, that it shoulde be put in some lines framed in & King's court. And a man neuer saw & these wordes defendemus was in use but only this worde warrantisabimus, by which it seemeth & this verbe warrantis maketh warrantie, & in the case of warrantie, and none other worde in our lawe.

¶ Also if tenaunt in the tale be seised of tenementes descendible by testament after the custome &c. And the tenaunt in the tale alieneth the tenementes to his brother in fee, and by the like and diery, and after his brother descendeth





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by his testament the same tenements to another in fee, & bindeth him and his heires to warrantise &c. and dieth without issue, it seemeth that this warrantie shall not barre the issue in the tale if he wil sue his writ of Formedone, by cause that his warrantie descended not to the issue in the tale, in so much as the uncle of the issue was not bound by force of the same warrantie in his life. And y cause y hee could not warrant the land in his lyfe, is in so much that the devisee could not take any execution or execute but after his decease, & in so much that y uncle in his life was not holde to warrantie, such warrantise ne may not descend from hym to the issue in the tale &c. for nothing may descend from the auncester to his heire but the same that was in the auncester. Also a warrantie may not go without the nature of tenementes by custome, but onely after forme of the comon law. For if tenant in taile be seised in tenements in borough english, where the custome is that all tenements of the same borough ought to descend to the young sonne, & hee discontinueth the tale with warrantise &c. & hath issue two daughters, & dieth seised of other lands & tenements in the same borough in fee simple to the value and moze of the tenementes tailed & so forthe, yet the yongest sonne shall haue a Formedone of the tenementes tailed, & shall not be barred by the warrantise of his father though inough to him descended in fee simple fro the same father after the custome, for thys that the war-

Warrantie,

rantie descendeth vppon the elder brother that is in full lyfe &c. & not vpon the yonger sonne, In the same maner it is of collaterall warrantise made of such tenements wher the warrantise descendeth to the elder sonne &c. this shall not barre the yonger sonne &c. In y^e same maner it is of tenementes in the shyre of Kent, which be called Gauckinde, & which tenements be departable among the brethren &c. after the custome &c. if any such warranty be made by their auncestours, suche warrantie descendeth alonely to the heire that is heire by the comon lawe, & not to all the heires which are heires of such tenements after the custome &c.

¶ Also, if a tenaunt in taylor haue issue two daughters by diuers ventres, and dyethe, and the daughters enter, and a straunger disseiseth them of the same tenementes, and one of the daughters releaseth by hyr deede to the dyssessor all hir righte, and byndeth hyr and hyr heires to warrantise, and dyeth without issue, in this case y^e first that suruiueth, may well enter and put out the dysseisor, & all the tenementes for this that suche warrantise is no discontynuance nor collaterall warrantye to the sister that suruiueth, for this that they be of half blood, and the one maye not be heire to the other after the comon lawe. But otherwysely, is where there be daughters of tenauntess in the taylor by one venter.

¶ Also if tenaunt in the taylor let tenement to another for terme of life the remainder to a

other

other in fee, and the collateral auncester confir-
meth the estate of the tenant for terme of life &
bindethe him and his heires to warrantisfe for
terme of life of y^e tenant for terme of life & dieth
& the tenant in the tail hath issue & dieth, now
this issue is barred to aske the tenementes by
writ of Formedon during y^e life of the tenaunt
for terme of life, because of y^e collateral discent
vppon the issue in the taile. But after the de-
cease of y^e tenant for terme of life, the issue shal
haue a Formedon &c. And vppon this I haue
heard a reason that this case shal proue by an
other case, that is to say, if a man let his lande
to another, to haue and to holde vnto him and
to his heires for terme of anothers lyfe, & the
lesour dieth, leaupnge him to whose lyfe &c.
And a straunger entreth in the land, that the
heire of the lesse may put him out, for this that
in the case nexte aforesaide, insomuche that a
man may bynde him and his heires to war-
raunt to the tenaunt for terme of lyfe, alonely
durynge the lyfe of the tenaunte for terme of
life, & the warrauntise descendeth to the heire
of him that made the warrauntise, the whiche
warrantise is of warrantisfe of inheritaunce,
but alonely for terme of anothers lyfe, by the
same reason where tenementes bee lette to a
man to haue and to holde to hym and to his
heires for terme of anothers lyfe, yf the father
dye, liuing him to whose lyfe &c. his heire shal
haue the tenementes lyuinge hym to whose
lyfe &c. For they haue saide, yf a man graunt

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an annuities to another to haue & to take to him & to his heires for terme of anothers life if the grauntee die &c. That after his heire shal haue the annuities during & life of him to whose life &c. Quere de ista materia &c.

¶ But where such lease or graunt is made to a man of his heires for terme of yeares, in this case the heire of the lessee & the grauntee shal neuer haue after the death of the lessee or the grauntee that, & is so letten or graunted, for this that it is chattel reall, and all chattell reals by the common lawe shal come to the executors of the grauntee or the lessee, and not to the heire &c.

¶ Also in some cases it may be, that howbeit that a collateral warrantie be made in fee &c. yet such warrantie may be defeated & annulled. As & tenant in the taile discontinueth the taile in fee, & the discontinuance is disseised, & the brother of the tenant in the taile releaseth by his dede to the disseisor all his right &c. with warrantie in fee, & dieth without issue, & the tenant in the taile hath issue, and dieth, now the issue is barred of his action by force of the collateral warrantie descending upon him, but if after this the discontinuance enter upon the disseisor, then maye the heires in the taile haue his action of Forfeiture &c. for this that the warraunt is annulled and defeated. For when the warraunt is made vnto a man upon any estate that then hee had, if the estate be defeated, the warrantie is defeated.

In

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In the same manner it is if the discontinue make a feoffment in fee reseruing to him certain rent, & for default of paymt a reentre &c. & a collateral aucester releaseth to y^e feoffee y^e hath estate vpon condicion &c. & dieth without issue though y^e the warrantie descend vpon y^e issue in the taile, yet if after the rent bee behind & y^e discontinue entreth into the lande &c. then the issue in the taile shall haue his recouerye by a writ of Formedon, for this that y^e warranty collateral is defiled. And so if any such collateral warranty be pleded against the issu in the taile in his action of Formedon, he may shewe the matter as is aforesaid, how the warrantie is defeated, and so he may wel mainteine his action.

Also if tenit in the taile make a feoffment to his vncle, & after his vncle maketh a feoffment in fee wth warrantie &c. to another, & after the feoffee of y^e vncle enfeoffeth again y^e vncle in fee & after the vncle enfeoffeth a straunger in fee wth out warrantie, & dieth without issue, & y^e tenant in the tail wil bring his writ of Formedon against the stranger that was in the feoffment &c. by the vncle, in this case the issu shal neuer be barred by the warranty y^e was made by the vncle to y^e said first feoffe of his vncle, for this that the said warrantie was defeated & annulled, for this that the vncle toke againe to him as greate estate of his saide first feoffee to whom the warranty was made as the same feoffe had of him. And the cause why the warranty

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arrantie is aniented, in this case is this, y is to say, y if the warrantie were in his force, then the vncle shal warrant vnto him selfe y maye not be, but if the feoffee made estate to y vncle for terme of life or in fee t yle, sauing the reuer sion vnto him &c. Or y he make a gifte in the taile to the vncle, or a lease for terme of lyfe, the remainder ouer &c. In this y warrantie is not al utterly aniented, but it is put in sus pence during the estate that the vncle had, for after this that the vncle is dead wout issu, the he in the reuer sion or he in the remaindre shal barre the issue in the taile of his wyte of foz medon by the collaterall warrauntie in suche case &c. But other wise it is wher y vncle had as great estate in the land by y feoffee to whō the warrauntie was made as the feoffee had of him &c.

¶ Also if the vncle after such feoffemē made with warrantie or a release made by him with warrantie be attaint of felony or outlawed of felony such collateral warrantie shal not bar nor greue the issue in y taile, for this y by the attainer of felony, the bloude is corrupte betwene them &c.

¶ Also, if tenant in the tail be disseised, & after maketh a release to the disseisor & warrantie in fee, & after the tenant in the tail is attainte, or outlawed of felony, & hath issue & dieth, in this case the issue in the taile maye enter vpon the disseisour.

¶ And y cause is for this, y nothinge maketh discon-

discontinuance in this case but \S warrantie, & the warrantie may not discend to \S issue in the tale, for this \S the blood is corrupte betwene him that made the warrantie & the issue in the tale. For the warrantie alway abideth at \S common law, & the comon law is such, \S whe a man is outlawed or a taint of felony, whiche outlary is an attaynder in the law \S the blood betwene him & his sonne and all other whiche should be said his heires is corrupt, so that nothing by discent may descende to any that may be his heire by the comon law. And \S wife of such a man \S is so attaint shall neuer be endow-
ed in the tenements of hir husband so attaint &c.

¶ And the cause is bicause men should more eschewe to doe felony &c. But the pssue in the tale, as to the tenementes tailed is not i such case barred, because he is inherited by force of the statute, and not by the course of the comon law. And therfore such attaynder of hys father or of his auncester in the tale &c. shal not put him oute of his ryghte, that he should haue by force of the tale.

¶ Also, if tenant in the tale enfeoffe the hys vncle which enfeoffe another wyth warrantie &c. if after the scoffe by hys dede release to the vncle all maner of warrantie, or all maner of couenauntes reals, or all maner of demaunders, by suche release the warrantie is extincte. And yf the warraunte in suche case bee pleaded agaynst the heyre in the tale that byn-
geth his wyte of Formedon to barre \S heire of
hys

Warrantie,

his action of the heyre haue and plede the sayd release &c. he shall defcate the pice in barre &c. And manye other cases and matters bee ther, wherby a man may defcate warranties.

¶ And it is to wete that in the same maner as collateral warrantie maye bee defcated by matter in dedde or in lawe, in the same maner may lineal warrantie bee defcated &c. For yf h heyre in the tayle bring a writ of Formedon, & a lyneall warrantie of his auncester inherita= ble by force of h tayle be pleadeth against him with that h assets to him discended of fee sim= ple by the same auncester h made the war= rantie if the heire that is demaundaunt may adnuil & defcate the warranty this suffiseth to him, for h discent of other tenemets of fee sim= ple maketh nothing to barre the heire w= out the war= rantie &c.

FINIS.

¶ Here beginneth the table of
this present booke.

Now haue I made for thee my sonne
three bookes.

The first is of estate & men haue of
lands or tenements, that is to saie.

Of tenaunt in fee simple.

Tenaunt in fee tayle.

Tenaunt in the tayle after possibilitie of issue
extind.

Tenaunt by the curtesy of England.

Tenaunt in dower.

Tenaunt for terme of lyfe.

Tenaunt for terme of yeres.

Tenaunt at will by the common law.

Tenaunt at will by the custome of the maner.

The second booke.

The second booke is of homage.

Fealtie.

Escuage.

Knightes seruice.

Socage.

Frank almoigne or free almes.

Homage auncestrell.

Graund sergeantie.

Pety sergeanty.

Tenure in burgage.

Tenure in villenage.

Of thre maner of Rents, that is to saie,

Rent seruice.

Rent

The table.

Rent charge.

And rent secke.

And these two small bookes haue I made
for thee for to vnderstand better certeine cha-
pters of the auncient bookes of tenures.

The thyrde booke.

The thirde booke is of percenters.

Of coppinaunties.

Tenaunties in common.

Estates of landes or tenementes vppon con-
dition.

Discentes that take away entres.

Continuall clatme.

Releifes.

Confirmacions.

Attournementes.

Remitters.

Of garranties, that is to saye.

Garrantie lineall.

Garrantie collaterall.

And Garrantie that beginneth by disseisine.

And knowe thou my sonne that I will
not that thou beleue that all that that I haue
sayde in the saide bookes be lawe, for that wil
I not take vppon mee nor presume. But of
those things that be not lawe enquire & learne
of my wise maisters learned in the lawe.

Notwithstanding though that certeine thin-
ges that bee noted and specified in the saide
bookes bee not lawe, yet suche thinges shall
make

The table.

make the more apt & hable to vnderstand, and
learne the argumentes and the reasons of the
lawe. For by the argumentes and the
reasons in the lawe, a man maye
more soner come to y^e certainte
& to the knowledge of the
lawe. *Lex plus lauda-
tur quando ratione
probatur.*
(. .)

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and Starre by Ry-
chard Cottyl.

1572.

Cum priuilegio.